App. F. IX-4.

1939

File No. 44 — 39

Serial Nos. 1 — 2

Previous References
106-35 (1-6)

Legn

Later References.
Ull 86-39-9 to 4

PRESERVED

105

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two only

A

Part B for February 1940.

SUBJECT.

— Mysore City Municipalities Act 1933
(Amendment)

No. P. 5472 dy 10.2.1940 to the Compiler, Mysore Gazette
for publication.

WD 0573—GPB—22,500—12-9-39

General and Revenue Secretariat | File No. | of 193 | [App. K. 111—

Mr. N. Laksminarayanappa, Esq., B.A., LL.B.
Government Advocate.

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,
Bangalore, 8/8/1938. 193

D. O. No.

Dear Mr. Ramakrishnaiya,

Please send me the following files immediately, as they are required in connection with case for hearing before the High Court, to-day

(1) File leading to the levy of octroi duty Motor Cars etc., in the Mysore City Municipality,

(2) File leading to the passing of the Mysore Road Traffic and Taxes Regulatic

Yours sincerely
Narayanappa

To

B. K. Ramakrishnaiya, Esq., B.A., LL.B.,
Assistant Secretary to Government.

1) Get the files and
Send draft for up
BKR
8-8-38

Sent
8-8-38

D.O. No P. Sec. dt 8-8-38

From
The Govt Advocate
Ltr no 38 dt 10
Forwards a copy of judgment passed

the High Court of Kandy.—

2) The two Secretariat collections sent to the Govt Advocate for reference have not been returned with P. V. D. A draft calling for them is put up for approval after receipt of which P. V. D. will be worked up.

3) D.Sec
BKR
21.10

4) [Not issued as the collections were since received.]

From
the Govt Advocate
D. O. No. P 337, of 26-10-38
Returns the two Secretariat collections

5) P. V. D. and its enclosure (Judgment of the High Court) are submitted for perusal. This may be sent to the L. S. G. Branch for further action

BKR
31.10

1) Asst Secy)

2) Minute for perusal
2nd Member)
1st Member) 31/10/38 4358
2/11.

3) Secy 1/11/38
BKR 1/11
7/11 L. S. G. Branch)
BKR 8/11

TYPING SECTION GENERAL SECRETARIAT
1 NOV 1938
SECOND LIEUTENANT ADJUTANT GENERAL
1 NOV. 1938
No. 3320

Question of the legality of levying octroi on motor cars - Mysore - judgment of the High Court

3

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

10) Submitted for perusal before taking further action

Sd/ K. S.

9/11/38

11) To 9/11/35 & 9/11/38

12) The following are the extracts from the judgment in the case

(i) "I see nothing in Section 64 of the City Municipalities Act to make it doubtful that octroi tax might be legally imposed upon stationary motor engines brought within the octroi limits, if that were the intention of the Council and the Govt, though to impose an octroi tax on motor vehicles would in my opinion be illegal. It is perhaps strange that such an indefinite word as "motor" should have been used by the Govt when sanctioning the addition of certain articles to the list of those to be subjected to octroi tax in Mysore city But to me it appears more probable that the Govt were using the word as referring to motors other than the motor engines of motor vehicles than that they should

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

4, Legality of levy, octroi on motor vehicles
2447/I — Mysore

File No. of 193 General and Revenue Secretariat

have been attempting to introduce or to sanction the introduction of an octroi tax on motor vehicles".

(ii) "It appears to me that it would be advantageous if sub-section (1) of Section 90 of the City Municipalities Act were recast either by being made into two parts or being redrafted in some other way so as to leave no doubt whatever about its meaning"

12) As regards point (i) it is perhaps necessary to make it clear that the word "motor" does not include motor vehicles. G.O. No. L7957-58/ MC 106-35-6 dt 20-4-36 may have to be amended accordingly or else the word may have to be defined clearly in the Byelaws of the Municipality. The President, City Municipal Council, Mysore may perhaps be consulted on this point.

13) Regarding point (ii) the Law Section may be requested to suggest an amendment to Section 90 (1) of the City Municipalities Act as suggested by the Chief Jus. of the Govt Advocate.

14) Submitted for orders.

Rmm 14/11

Henry L. S. 14/11/-

16) Papers submitted on 1-12-1938

22/11

Legality of levying octroi on motor cars
U327/p38 Mysore

General and Revenue Secretariat — Mel File No. — of 193 8-39 — [App. F. III—2

Serial No.

17) Resubmitted as per index at para 16 supra
for
11/12/38

SECY LOCAL SELF GOVT. 1. DEC. 1938 GOVT. OF MYS

Secy L.S.G.)

14) A & B — may be...

DO
No
12 12 38
Rs
22/14-

19) Draft letter to the President, City Municipal Council, Mysore regarding A is submitted for approval.

Rmr
23/12

20) Secy.
Rs
23/14-.

2 To the President, City Municipal Council, Mysore
No. 25366 dated 3-1-39

Calls for his opinion in regard to the definition of the word "Motor" to avoid complications.

21) The file may be referred to the Law Section as regards B. supra

Rmr
4/1/39

22) Mr. Secy Law
N.C.)

2
4/1/-.

23) The report Advocate may perhaps be requested to furnish the amendments

Hd L. Secy

24) The file may be put up after the President's reply is received
6/1/39

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

B FLC 10/2/39
L
11/1/39

6 Legality of Levying octroi on Motor cars
— Mysore city —

2nd. File No. 151 of 1936. | General and Revenue Secretariat

From

The President, City Mul. Cl. Mysore
No. G.T. 1897 of 16.1.39.
States that he agrees to the term
Levy defined as suggested by the Govt. Advocate.
Sd/
Sated. If approved, this will be sent to the
Govt. Advocate in suggesting suitable amend-
ments (vide para 24 supra)

2nd.
20.1.39.

Levy L.V.S.

2
30.1.

GOVT OF MYSORE.

26
23.1.39
2
24/1.

Forwarded with Compliments
unofficially to the Government Advocate
for favour of necessary action & return
of the file very early

By order
Sir Sayaji Rao
Secy/Asst Secy
of Deptt

W.O. 108 of 38
dt 24.1.39

Fno. 603/38-39
dt 24.1.39

24.1.3

Returned with compliments.

2 A copy of the by-laws of the Mysore City Municipality including the levy of the octroi duty in question and schedules may kindly be put up and the file returned to me.

Mark Mathews never
Government Advocate. mapped

H/30.1.39.

SECY. LOCAL SELF GOVT.
31 JAN 1939
GOVT. OF MYSORE.

Returned with compliments — with a
copy of the bye-laws of the Mysore city.
Kind regd is invited to pages 114 to 118 thereof
and the amendments put up therewith.

By order
S. Ramachandra
31.1.39 for Secy to Govt & Dept

Fno 623/38-39
dt 30.1.39

4327 / 38 action on motor item / Mysore

3623

General and Revenue Secretariat — File No. 15 of 193 — [App. F. III—2

Serial No.

No. 309 7
13-10-38
dy 2.12.38
With 1 Book

Returned with compliments.

30 I think a note may be added after the words "Motor and Motor Accessories" on the following lines.

"N.B. The word 'Motor' in item 32 above does not include Motor Vehicles taxable under the Mysore Road Traffic & Taxation Act X of 1935".

31 I have not mentioned anything regarding the suggestion made by the learned Chief Justice in the matter of redrafting Section 90 of the City Municipalities Act (No.VII of 1933) and referred to in my letter No.309 dated the 13th October 1938 as it will be probably worked up in the Legislative Branch of the Secretariat.

Narasimhachar
Government Advocate.

CSN/2.2.39

32 Draft letter to the President, City Municipal Council, Mysore requesting him to take action to amend the by laws is submitted for perusal. Further action will be taken to amend Section 90 of the City Mcpties Act 1933 later on—

Sim for 22/2 (City L.S.)

2/23/2.

TYPING SECTION 7 MAR. 1939 REN. & REV. SECT.

SELF GOVT. 1939 SECTION

33 Sim 24/2 2/24/2.

NOTE- Contn. Sheet.

7859

WD 0544—GPB—30,000—2-9-38

Sim 7/3 Secy to Govt (Legislative Branch) 9-3-39 Sim 28/2 Sim 27/2

File No.

General and Revenue Secretariat

To the President, City Municipal Council, Mysore

No L 7245 dated 8-3-39

Requests him to take action to amend the by laws defining clearly the words "Motor and motor accessories."

Section 90(1) of the City Municipalities Act runs as follows:-

Any person selling or keeping for sale without a license any article liable to octroi for the sale of which a license is required to be obtained, or having in his possession any such article on which octroi has not been paid, shall be liable, on conviction before a magistrate, to a fine etc. "

3rd) As it has been contended that the ~~[illegible]~~ Section ~~underlined~~ (words underlined) seems to make the possession of articles liable to octroi punishable under this Section, though the real intention of the Legislature is to make the possession of only articles liable to octroi for the sale of which a license is required punishable, the Chief Justice has observed that it would be advantageous if the subsection

Serial No.

is recast either by being made into two parts or being restricted in some other way so as to leave no doubt whatever about its meaning. It will therefore be seen that what is required to make the meaning of the words "such article" more clear. The words "such article" are also contained in Sub section (2) of 90, it may perhaps be necessary to similarly amend this sub section also

38 Besides a similar provision exists in the Town Municipalities Act. Vide Section 85 and it is therefore necessary to amend the Town Municipalities Act also in this respect.

37 As the question is of a complicated nature, the Law Section may perhaps be requested to examine the wording of the Sections and suggest suitable amendments. (Vide paras 14 and 31 supra)

Submitted for orders.

Legality of levy of a toll on motor cars in Mysore city. — ab 2/3/[illegible]

File No.	of 193	General and Revenue Secretariat

4 2 Kind reference is invited to the discussions ~~from~~ in pages 10 to 18 of the judgment, regarding the possible interpretations of Section 90 (1). In order to suggest a suitable amendment to that Section, it is necessary to know which of the interpretations was in view of the legislature. ~~Courts have held to be~~ Views of Govt may therefore be first obtained whether the Sub-Section is intended to provide for ~~two classes of offences~~ the keeping of any article within the Municipal limits which is liable to octroi but on which octroi has not been paid on offence, or whether it is intended to limit its scope only to such articles, for the sale of which a license is required

GOVT. OF MYSORE.

Submitted for orders.

Rmr 6/4/39 Secy L. S. 11/4/39

4 4 It is only the latter case that is contemplated in Sec 90 (1) (B)

(Member)

Serial No.

(45) A draft amendment may be put up—

Ptl

13-5

13/5

2 13/5

Law 46)

BKR 13.5

Subs

7) Now an order for amendment has been passed, the further proceedings will have to be done by the Legis Section as usual. If approved the file will be transferred to the Leges Sec: for further actio

16/5

8) Reference is invited to G.O. No 1362-7-Legis/1-30-1 dated 16th June 1930 under which no Preliminary draft will have to be prepared by the Administrative Branch and after ... val by the Member in Charge the Department transfers to the Legis. Sec. for

File No. of 193

General and Revenue Secretariat

Serial No.

Perusing

49) The file with it appeared be returned to the L. S. G. Bo

18.6.39

S. 1 Section 90 (1) may be amended as follows

(1) Any person selling or keeping for sale without a license any article liable to octroi and for the sale of which a license is required to be obtained, or having in his possession any article on which octroi has not been paid, but which is liable to octroi and for the sale of which a license is required to be obtained, shall be liable on conviction to a fine not greater than ; and

(2) Any officer of the municipal council authorised by the municipal Council in this behalf, if he has reason to believe that any article on which octroi has not been paid, but which is liable to octroi and for the sale of which a license is required to be obtained, is kept or concealed in any place provided that ;

erial No.

Provided also that nothing in this Section shall apply to any article liable to octroi and for the sale of which a license is required to be obtained, if the value of such article does not exceed two hundred rupees in value and if it is kept by any person for the personal use of himself or any member of his family or sold by such person when not required for such use.

(3) The provisions of the Code this Section

BKR 22-5-39

Asst Secy L.S.G.&R. Dept

7) A statement of general principles and a draft bill are submitted for consideration

Rmr 2/6/39 for Secy L.S.G.

2 3/6/-

59) may be approved

Rmr

6/6

3/6/-

11 Members + Ch + Ch G 6

54) Ch and the

Rmr 9.6.39 7.6

55) This may be passed in connection

Rmr

NOTE—Contn. Sheet.

OFFICE OF THE SECOND MEMBER OF COUNCIL - 7 JUNE 1939 No. A.18.34

7 JUNE 1939 No. 9053

12) Amendment to the city Municipalities Act, 1935 re levy of octroi on certain articles in city

File No. 51	of 1938.	General and Revenue Secretariat.
		Serial No.

56) For being placed before the Council

Chief Sec;

Ce
1216/39 27/6/39

For Disposal at a meeting. No. C. 517

6th 1938-39

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

Subject

(clause_____of the schedule)

Bill further to amend the Mysore City Municipalities 1933

Circulated to the Members of Council.

By Order,

Chief Secretary to Government.

14th June 1938.

9929
16.6.39

First Member of Council.

72237
16.6.39

Second Member of Council.

Law Sec? With Compts
19/6

Extract from the Proceedings of the 978th *Meeting of the Council of H*
Highness the Maharaja, held at Bangalore on the 4th August 1939. *19*

D4P

6 Subject. -

Bill to further amend the Mysore City Municipaliti Act.

OPINION OF THE COUNCIL.

The proposal may be approved.

(signed) MIRZA M. ISMAIL.

DEWAN OF MYSORE

For favour of Final Note

II Member,.

Final Note placed below

S. N. put up.

DEWAN)

"EXTRACT"

Chief Secretary to Government.

WD 1471—GPB—2,000—1-3-21

Submitted to His Highness.

I submit herewith a Final Note by the Second

Member of Council on the subject of the bill to furt

amend the Mysore City Municipalities Act,

.....

for His Highness' gracious approval.

Bangalore,
7th August 1939.

Mirza M. Ismail
Dewan.

Final Note by the Second Member of Council.

Subject.— Bill to further amend the Mysore City Municipalities Act.

Section 90 of the Mysore City Municipalities Act, 1933 provides for the punishment for the sale without a license and for the possession without the payment of octroi of an article which is liable to octroi and for the sale of which a license is required to be obtained. Recently in a case before the High Court, it was contended that the wording of this section seemed ambiguous in that it admitted of the interpretation that the possession of an article liable to octroi on which octroi had not been paid was punishable even though a license might not be required for its sale. In order to remove this ambiguity and render the Section clear, it is proposed to amend this Section.

This proposal was considered at the meeting of the Council held on 4th August 1939 and the following resolution was adopted:-

The proposal may be approved.

The above resolution of the Council is submitted for His Highness' gracious approval.

SECOND MEMBER OF COUNCIL.

Bangalore,
7th August 1939.

Record of Cases submitted for the Orders o

His Highness the Maharaja

Subject.

Bill to further amend the Mysore City Municipalities Act.

General and Revenue
Secretariat.

SUBJECT :—

[illegible]
City Municipalities Act

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

Law .....Department.

1493
11.8.39

FIRST MEMBER OF COUNCIL.

11/8/39

1004
10.8.39

SECOND MEMBER OF COUNCIL.

11.8

Law Secy with Compliments.

12/8

1496

WD 0579—GPB—375—20-12-38

Bill further to amend the Registration Act 1908 21

1929 Bill

General and Revenue Secretariat | File No. of 193 | [App. F. III-2

Serial No.

This file may perhaps be sent to the Protection Branch for taking further action. 2/15/29.

Room 14/8 JAR (Protection Branch)

Section 90 (1) is proposed to be recast so as to specify more clearly the two classes of offences with which it deals, viz:—

1) selling or keeping for sale articles (a) liable to octroi and (b) for the sale of which a licence is required to be obtained and (c) for which no licence has been obtained.

2) being in possession of articles (a) liable to octroi and (b) for sale of which a licence is required to be obtained and (c) on which no octroi has been paid.

It will however be seen that articles for the sale of which a licence may be required have invariably to be articles liable to octroi. Section 51 (1) of the Act reads, "Every municipal Council may from time to time .... make, alter or rescind by-laws not inconsistent with this Act —— (K) fixing octroi limits and stations; providing for the exhibition of tables of octroi requiring a licence to be obtained for the sale of any article liable to octroi .... etc (vide also first para of the Chief Justice's last line of page 11 and first 4 lines of page 12, the middle of page 15, etc)

In this view, the two classes of cases may perhaps be rendered more definite and less liable to overlapping if they are set out as under:——

1274/39

Bill further to amend the Municipalities Act.

File No. of 193

General and Revenue Secretariat.

Serial No.

without a licence

1 Selling or keeping for sale articles for the sale of which a licence is required to be obtained.

2) being in possession of articles for the sale of which a licence is required to be obtained and on which octroi has not been paid

[In both cases, the clause "liable to octroi" has been omitted as unnecessary.]

In the former class of offences it is immaterial whether octroi has been paid or not and in the latter whether licence has been obtained or not; the gist of the offences being in the first case that licence has not been obtained and in the second that octroi has not been paid. Hence the [illegible] of the judgment of the Chief [illegible]

A draft Bill on the above lines is put up.

Submitted for orders.

Sd/-
25.8.39

By the proposed amendment ambiguity the words "such article" has been cleared up.

Law Secretary. 3
28/8/39

Bill drafted as instructed

Sd/-
4/9/39

SECY. LAW DEPT. 1543 28 AUG. 1939 GOVT OF MYSORE

A revised draft is put up as instructed.

The Statement of general Principles put up by the administrative Branch, will if approved, be forwarded to the R.A. Office for further action. The Statement will also be treated as the Statement of Objects & Reasons and sent with the Bill to the R.C. Office for further necessary action. Submitted for orders.

Sd/-
14.9.39

Law Secretary

Re Mysore Cit. Municipalities (Amendment)

General and Revenue Secretariat. | File No. | of 19 | [App. F. III-2

Serial No.

Phase etc. the statement of General principles

The statement of general principles is omitted as notified in the last sentence re amendment of sec 35 of the Mysore Town Municipalities Act is omitted as indicated.

LEGY. LAW DEPT. 15 SEP. 1939 MYSORE

15/9/39

Copy with the statement of general principles put up. If approved The Town Municipalities Bill will be amended similarly & the Bill put up

2nd Member) 17/9 3 1879

18-9

Dewan) 1879

Bills to amend (1) City / Municipalities Acts
2) Town

File No.

General and Revenue Secretariat.

Serial No.

Draft Statement of Genl Principles of the Bill to amend the Town Municipalities Act is put up for approval before being sent to the R.A. Office. The draft Bill will be sent in due course for publication in the Gr.

Secretary). 3/ 21/9

2/ 25.9.39

SECY LAW DEPT. 21 SEP. 1939 GOVT OF MYSORE

The R.A Office with three copies each of Statements of Genl Principle

Tour 25.9.39. Copies of two items of Govt business referred to above. received.

Protocol. DFI&TD

OFFICE OF THE SECRETARY 21 SEPT. 1939 REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL.

The two Statements of Genl Principles of the two Bills were accepted by the R.A Govt Dasara.

Submitted for orders if the two Bills may be published under Rule 8 of the Rules of Business. The Statements of Genl Principles will, if approved, be adopted as the Statement of Objects and Reasons

Law Secy) 3 24/11

Tour 27.11.39

3672 27.11.39

OFFICE OF THE SECOND MEMBER OF COUNCIL. 28 NOV. 1939 No. 4533

Orders may kindly be published under Rule 8.

2nd Nov

Dewan 27/11

28.11 28/11 30.11 6 4/12

28-11-39

Mysore City Municipalities Bills. 1217

General and Revenue Secretariat. File No. D. 98/39 of 19 [App. F. III-2

Serial No.

matter added after sent standing in the name.

OFFICE OF THE SECRETARY
1 DEC 1939
REPLIED

To the Le office
with Five Copies each of the City Bills and one Copy each of the Statement of Objects & Reasons.

9.12.39

Copies taken and the file returned
11.12.39 Protection Branch)

BUN
11/12/39

The Bills and the Statement of objects and Reasons have been published in the Gazette of the 21st December 1939.

As the Bills merely seek to clarify the meaning of the existing sections, the following motions for passing them in one sitting of the Le are ~~proposed~~ for inclusion in the Agenda of the ensuing Le session:-

I. Bill further to amend the Mysore City Municipalities Act, 1933

1. Motion that the Bill published under rule 8 of the Rules of Business be read in Commn

Mover 2nd Member

Seconder Law Secretary

2. Motion that the Rules of Business and Standing orders be suspended and the Bill taken into Consideration at once without reference to a Select Committee

Mover: 2nd Member

Seconder: Law Secretary

3. Motion that the Bill be passed.

Mover: 2nd Member

4334 & 339

Municipalities amendment Bills

Town

File No. D.1123/42 of 19	General and Revenue Secretariat.
	Serial No.

II Bill Entitled to amend the Mysore Town Municipalities Act

1 Motion that the Bill published under rule 8 of the Rules of Business be read in Council

Move 2nd Member

Secon Law Secretary

2. Motion that the Rules of Business and Standing Orders be suspended and the Bill taken into Consideration at once without reference to a Select Committee

Move 2nd Member

Seconde Law Secretary

Motion that the Bill be passed

Move 2nd Member

Secon Law Secretary

Ler Secretary,

GOVT. LAW DEPT. 4333 GOVT OF MYSORE

OFFICE OF THE SECOND MEMBER OF COUNCIL. - 5 JAN. 1940 No. 518

4/1

4/1

P.C. 5.1.40

OFFICE OF THE SECRETARY 5 JAN. 1940 REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

4/1

3/1

To Le Offr

for noting the Motion for inclusion in the Agenda and returning the file

5.1.40

Moved & returned

9-1-40. Protection Branch)

Town Municipalities (amendment) Bills.

General and Revenue Secretariat. | File No. | of 19 | [App. F. III.-2

Serial No.

These 2 Bills were introduced in the Legislative Council on 22nd January 1940 and passed each thereon on the same day.

I. J. M. is put up Law Secy

29.1.40

W Marsden)

Signed Final Note placed below

30.1.40.

S. N. Roy

Dewan)

Final Note by the Second Member of Council.

ubject.— Promulgation into law of Mysore City and Town Municipalities (amendment) Bills.

On the 9th August 1939 the gracious sanction of His Highness was accorded to amend the City Municipalities Act.

General Principles of a Bill to amend the City Municipalities Act was placed before the Representative Assembly and accepted by that House. Having regard to the similarity of the provisions in the Town Municipalities Act, a modification was recommended in the case of this Act also and was adopted by the Representative Assembly.

The Bills were thereafter introduced in the Legislative Council on the 22nd January 1940 and passed the same day.

I solicit the gracious assent of His Highness to promulgate the Bills into law.

/Ku Amantaramaiah

SECOND MEMBER OF COUNCIL

Bangalore,
30th January 1940.

Submitted to His Highness.

I submit herewith a Final Note by the Second *Member of Council on the subject of* the promulgation into law of the Mysore City and Town Municipalities (Amendment) Bills *for His Highness' gracious approval.*

Mirza M. I.

Bangalore,
31st January 19.

Dewan.

Record of Cases submitted for the Orders of

His Highness the Maharaja.

Subject.

Promulgation into law of the Mysore City and Town Municipalities (Amendment) Bills.

General and Revenue Secretariat.

N.S.236

SUBJECT:—

Promulgation into Law of the Rynagar City and Town Municipalities (Amendment) Bill

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide* *Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

Law Department

7476
5.2.40

FIRST MEMBER OF COUNCII

5/2/40

6349
5.2.40

SECOND MEMBER OF COUNCIL.

5/2

Law Secy with Compliments

5.2.40

WD 04642—GPB—500—23-10-39

6/2

Inserting as Town Municipalities (Amendment) Acts 32

General and Revenue Secretariat. | Leg: File No. 44 of 1939 | [App. F. III-2

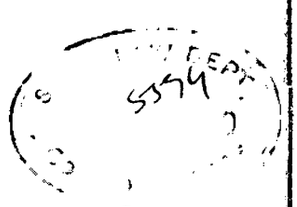
Serial No.

On the 1st February 1940 in pursuance thereof Your Highness was accorded to promulgate the Bills into law.

Submitted with 2 draft G.Os. directing the Publication of the City Municipalities (Amendment) Act as Act VII of 1940 and the Town Municipalities (amendment) Act as Act VIII of 1940 respectively

Sd/- 7.2.40

Sd/- Lee Socretary



7/2

In draft is for approval

Sd/- 9/2/40

Sd/-

Issued G.O. P 5471 - Leg: 44-39-1 dated 10th Feb 1940 directing Publication of City Municipalities (amt) Act as Act VII/40

Issued G.O. P 5472 - Leg: 44-39-2 dated 10-2-40 directing Publication of Town Municipalities (amt) Act as VIII/40

GENERAL AND REVENUE SECRETARIAT

Bangalore, Dated, 8th Aug. *1938.*

D. O. No. F 301/Secr. Law Files

Dear Mr. Lakshminaranappa,

With reference to your D.O. No. Nil. dated 8th August 1938, I am sending herewith the two files required by you.

(i) File leading to the levy of motor duty on Motor Cars etc., in the Mysore City Municipality. (RL 106 - 35 Sls 1-6)

(ii) File leading to the passing of the Mysore Road Traffic and Taxes Regulation. (Legis. 43-34 Sls. 2 and 4.)

Yours sincerely,

Mirle N. Lakshminaranappa, Esq., B.A., LL.B.,
Government Advocate,
Bangalore.

Appendix F G—1]

SUBJECT.....

.....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue.....

Signed by .....

List of enclosures.....

Copied by .....

Examined by.....

Section

File No.

Serial No.

No.

To

Dear Mr Lakshminarayanappa,

With reference to your D.O. No - nil dated 8-8-35 I am desired to send herewith the two files required by you (i) File relating to the levy of octroi duty on Motor cars etc in the Mysore city Municipality (ii) File relating to the passing of Mysore Road Traffic and Fares Regulation.

Yours sincerely

BKR

8/8

Mr. K. Lakshminarayanappa, Esq. BA., LL.B., Govt. Advocate

WD 03601—GPB—30,000—23-9-35

Appendix F G—1]

SUBJECT.....

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Diary No. of letter replied to .....

Date of issue.....

Signed by .....

(1) ML file No. 106-35 Sh/1-6

(2) Legis -d 43-34 Sh/2+4

List of enclosures.....

Copied by.....

Examined by.....

Section Law

File No.

Serial No.

No.

To

The Govt Advocate

General and Revenue Secretariat

( )

the 19

Sir,

I am directed to request you to be good enough to return the two Secretariat files noted in the margin, sent to you for reference with D.O No. P 801, dated 8th Aug 38 if they are no longer required

I have etc

BKR

for Addl Secy

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

4

Dated, Bangalore, 27th October 1938.

No.

From

The Additional
~~The General~~ *Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Government Advocate,
Public Offices,
Banga

Sir,

I am directed to request you to be good enough to return the two Secretariat files noted in the margin, sent to you for reference with D.O.No.P.801, dated 8th August 1938, if they are no longer required.

(1)ML File No.106-35 Sl.1-6.)
(2)Legis. " 43-34 Sl.2&4.)

I have the honour to be,
Sir,
Your most obedient servant,

for Additional Secretary to Govt.

I am returning herewith, with thanks, th
following two files sent to me for reference with
your letter No. P. 805, dated the 8th August 1938

(1) File relating the levy of Octroi duty on
Cars, etc., in the Mysore City Muni
cality (Ml. File No.106-35/Sls.1-6).

File leading to the passing of the Mysore
Road Traffic and Taxes Regulation (Legis.
43-34/Sls.2 and 4).

Yours sincerely,

Mudaliar
Narasappa

B. K. Ramakrishnaiya, Esq., M.A., LL.B.,
Assistant Secretary to Government,
Law Department, Bangalore.

Mirle N.Lakshminaranappa, Esq
B.A., LL.B
~~M.A.R. NAGESWARA IYER B.A., B.L.~~
Government Advocate.

GOVERNMENT ADVOCATE'S CHAMBER
PUBLIC OFFICES;
151-38
Bangalore, 13th October 1938.

D. O. No. 309

CONFIDENTIAL

Dear Mr. Subrahmanya Iyer,

The legality of the levy of octroi duty by the Municipality in the City of Mysore was decided by the High Court in Criminal Revision Petition No. 99 of 1937-38. After considering every aspect of the case and discussing all possible arguments for and against the levy, the learned Chief Justice and his learned colleague Mr. Justice Shankaranarayana Rao concurred in holding that the levy was against law. This decision was, if one can say so with respect, not wholly unexpected as the learned Second Member so early as on 1-4-1936, was pleased to note ~~so far~~ in Ml. File No.106 of 1935, that "the levy of octroi on some of the articles, e.g., Motors and Motor Accessories may be open to objection"

2. In this connection, I wish to invite the kind attention of the Government to two matters. If the words "Motor and Motor Accessories" in the schedule of the goods for which the levy of octroi was sanctioned should be understood to refer to the Motors i.e., the Engines and their accessories used to derive power for various machines as e.g. Rice-mill etc., and to exclude Motor Vehicles, then the levy as well as the Government Order sanctioning it will be perfectly legal thus avoiding any necessity to interfere with the wording of the Government Order mentioned above.

3. The second point for consideration is the suggestion thrown out by the learned Chief Justice in the penultimate paragraph of his judgment regarding the amendment of Sub-section 1 of Section 90 of the City Municipaliti Act (Act No.VII of 1933). All the arguments put forward by me as well as by the learned Counsel for the accused in that case have been noticed by the learned Chief Justice in the

IN THE HIGH COURT OF MYSORE AT BANGALORE.

Thursday, the 18th day of August 1938.

PRESENT

SIR D'ARCY REILLY, CHIEF JUSTICE.

AND

RAJADYAKSHA AND
THE HON'BLE MR. JUSTICE T. V. JAGANNADHAYANA RAO.

CRIMINAL REVISION PETITION NO. 99 OF 1937-38.

G.R. Ranich. ..Accused. PETITIONER.

(By Mr. K.P. Somashekhara Rao.)

vs.

The Mysore City Municipality. Complainant. CITIZEN.

(Mr. Hirle M. Lokanarayanappa, Government Advocate, for opponent)

Criminal Revision Petition against the conviction and sentence passed by the Second City Magistrate Mysore (Mr. K. Parameshwarappa) in Criminal Case No. 4569/36-37 for an offence under section 90(1) of the Mysore City Municipalities Act.

This petition coming on for hearing this day, before a Bench, as ordered by this Court on 30-7-1938. the Court made the following:-

THE CHIEF JUSTICE :--

In this case the Accused has been convicted of an offence punishable under section 90(1) of the City Municipalities Act 1933 on the ground that he had in his possession on the 19th of November 1936 in Bulawayo City a motor-bus, on which octroi had not been paid. The matter comes before us in revision.

Under section 86 of the City Municipalities Act with the sanction of the Government a City Municipal Council may impose a number of different taxes, one one of them is described in that section as "an octroi on animals or goods or both brought within the octroi limits for consumption or use therein". Under that section octroi has been imposed by the Bulawayo City Municipal Council on a number of different articles. In 1936 with the sanction of the Government sixteen additions were made to the list of articles on which octroi should be charged. ~~That~~ The last item in that additional list is entered as "motor and motor accessories" the first word "motor" being obviously a slip for "motors" in the plural. According to the Government Order, in which sanction for that addition to the list of articles on which octroi was to be charged was given, the new charge was to come into force on the 1st of June 1936. It was by virtue of that addition to the list of articles on which octroi was to be charged that it has been held against the Accused in this case that octroi should have been paid on a motor-bus, which

which it is admitted was in his possession in Mysore City on the 19th of November 1938.

Messrs Mr.Somasekhara Iyer, who appears for the Accused before us, has urged that there are a number of reasons why the Accused cannot legally be convicted under Section 80 of the City Municipalities Act for not having paid octroi on that motor-bus. He contends that the City Municipalities Act gives the Municipal Council no power to impose an octroi tax on motor vehicles. Section 64 of that Act runs: "Any municipal council (a) after observing the preliminary procedure required by Section 65, and (b) with the sanction of the Government, and subject to such modifications or conditions as under Section 66 the Government in according such sanction deems fit, may impose, for the purpose of this Act, any one or more of the following taxes at rates not exceeding the o prescribed in Schedules I to VI, that is to say, "; and then follow descriptions of twelve different kinds of taxes with an addition at the End, "any other tax to the nature and object of which the approval of the Government shall have been obtained prior to the selection contemplated in Clause (a) of Section 65". As I have mentioned, one of the twelve kinds of taxes set out in Section 64 of the Act is an octroi tax on animals or goods or both brought within the octroi limits for consumption or use therein". That at first sight might be thought quite wide enough to cover a motor-bus or any other motor vehicle brought within the octroi limits, as it is admitted the motor-bus with re are concerned had been brought within the octroi limits or Mysore City. But an examination of the twelve classes of taxes set out in Section 64 appear

me to show that they are intended to be exclusive of each other so that nothing shall be taxed under more than one of these clauses. The second class set out in the section is "a tax on all or any vehicles, boats or animals used for riding, draught or burden, kept within the said municipality for use". There is no doubt, and it is not disputed before us, that the motor-bus with which we are concerned would have been liable to taxation under that clause of the section. Mr.Somasekhara Rao contends that it is not liable also to an octroi tax under the section. It has to be admitted I think by the learned Government Advocate, who appears to support the conviction, and by Mr.Raja Iyengar for the Municipal Council in this case that there is no other kind of tax than the octroi tax set out in section 64 of the Act, which by the wording used could overlap one of the remaining eleven clauses set out. It is only in the case of this octroi tax that there is any overlapping, which could justify double taxation in the way suggested, if it is so in the case of the octroi tax. In regard to some of the kinds of taxes set out in the section words are explicitly used to show that the same thing is not to be taxed under two of the clauses or kinds of taxes provided for. For instance, clause (ii) provides for a tax on all or any vehicles, boats or animals used for riding, draught or burden, kept within the said municipality for use, clause (iii) provides for "a toll on vehicles entering the said municipality, but not liable to taxation under the clause last preceding," i.e. explicitly excluding vehicles liable to taxation under clause (ii) from the payment of toll under clause(iii). Then clause (iv)

iv) provides for an octroi tax, and clause (v) provides for a "terminal tax on goods imported or exported from the terminal tax limits"; but they are followed by a proviso "that a terminal tax and an octroi shall not be in force in any municipality at the same time". - Clause (xi) provides for "a tax on arts, professions, trades and callings, and on offices and appointments". Clause (xii) provides for " a tax on shops and other - places where a business or profession is carried on for purpose of profit, payable by the person or persons - engaged in the business or profession". But that is followed by a proviso that, where the municipal council elects to levy such a profession tax, the persons who pay that tax shall not be required to pay a tax under clause (xii) on the shops or places where their business or profession is carried on. In all these cases there are explicit provisions showing that the classes of taxation provided for in the section are not to overlap each other so that one person or thing shall be liable for taxation under more than one clause. The learned Government Advocate has used this characteristic of - the section as an argument to show that, whatever was the intention in regard to the other classes of taxation provided for in the section, at any rate, octroi tax may overlap another class so that a thing may be subject - both to octroi tax and also to taxation under one or of the other six clauses. He urges that such an overlapping is explicitly prevented in regard to the other taxes I have mentioned but that there is nothing explicit to that effect in respect of the octroi tax. That at first -

first sight may appear an effective argument. But I think we must be very careful when interpreting a - section, which provides for a number of different taxes and appears to intend that generally they should not - overlap each other, before we find that one of them is of such an exceptional character or treated in such an exceptional way that it does overlap another of the - classes. It would be a strange feature I think if in regard to the octroi tax this overlapping were allowed, though it has not been allowed in any other part of the section.

I have mentioned that the opening part of the - section refers to the schedules of the Act, which - prescribes the maximum limit of taxation under the - various clauses. I think they are of use to us in - showing the intention of this section; and, if the wording of the section itself leaves any doubt about the intention of the Legislature, we are certainly entitled to use the schedules to assist us in arriving at a conclusion about the exact effect intended by the Legislature. Schedule III of the Act sets out the maximum rates of taxation under Clause (ii) of the - section, i.e. for "vehicles, boats or animals used for riding, draught or burden, kept within the said Municipality for use". The rates of taxation set out in that schedule are very considerable. The tax on a motor-bus may be Rs.60/- a year. The tax upon a motor-car may be Rs.40/- or Rs.30/- according to its weight. And maximum rates of taxation for different kinds of animals are set out in that schedule. Schedule II sets out the maximum rates of octroi and terminal tax. A - number of articles are specified in that schedule, but it must be particularly observed that, although -

although clause (iv) of the section provides for an octroi tax on "animals or goods", using those words generally and without any limitation, Schedule II - which is to control the rates of taxation, says - nothing whatever about any animal used for riding, draught or burden, while maximum rates of taxation as I have mentioned are specifically provided for such animals in Schedule III. Now, if it was intended that animals generally might be liable to octroi tax under clause (iv) of the section, why were those - animals, for which rates of taxation are ~~practically~~ provided in Schedule III, not mentioned in Schedule II? It cannot be supposed for a moment that the Legislature forgot those animals altogether when drawing up Schedule II. If animals generally when brought within the octroi limits of a municipality were liable to an octroi tax or might be liable to an octroi tax under clause (iv) of the Section, it is not possible that the Legislature could have over-looked the hundreds of - bullocks, which go into every large town in this state every day drawing carts, but nothing is said about them in Schedule II. The reason appears to be that - Schedule III provides for the taxation of such animals. The only animals mentioned in Schedule II in connection with octroi tax are animals used for slaughter, ~~viz~~ viz. sheep and goats. And in the same way, though Schedule III relating to the tax on vehicles kept within municipal limits provides maixmum rates of taxation for different kinds of vehicles, including motor vehicles, there is no mention whatever of any vehicle in Schedule II relating to octroi taxes. Is it ~~then~~ possible, if the -

the Legislature intended such vehicles to be included in the word "goods" as used in clause (iv) of the section they overlooked the existence of all vehicles when they were drawing up Schedule II ? I think those characters/ of SchedulesII and III afford a very strong indication that, when the Legislature was providing for octroi tax on animals and goods in clause (iv) of section 66 of the Act, they were dealing not with all animals and all - goods but with such animals and such goods as have not been already provided for as subjects of taxation in - clause (ii) of that section. It has been suggested that Schedule II mentions only a limited number of - particular articles on which octroi tax may be charged, at the end of the list appearing the words "Class VII" Other articles which are not specified above and which may be approved by the Government by an order in this behalf", and it is suggested that it is open to the Government hereunder to add any other articles to the - schedule, whether they are articles included in - Schedule III or not. I do not think that is a permissible way of interpreting those words at the end of Schedule II. If Schedule II sets out, and is intended to set out, only articles which are not subject to any other tax under the section except octroi, tax, only articles which do not fall within any of the other classes of taxes - provided for in section 66 of the Act, then the words at the end of the section do not give the Government a free hand to introduce any articles whatever within Class VIII but can only authorise the introduction of articles subject to a similar limitation under the rule, which is always applicable to the interpretation of ~~statue~~ statutes - and is known as the rule of ejusdem generis. The

The other articles to be included in Class VIII of the Schedule if any must be of the same general kind and characteristics as the articles specified by the Legislature and subject to the same limitations.

When we take these two schedules, Nos. II and VII, with the general characteristics of Section 66 of the Act, I do not think it will be proper for us to regard Clause (iv) of that section as having something exceptional in its character by providing for a tax different in characteristic from the other taxes described in the section so that the octroi tax may overlap any of the other taxes and so that an article, which under the section would be liable to taxation in another of the classes of taxation set out should be liable twice to taxation by being brought also within the class of articles liable to octroi tax. That appears to us to be clearly against the intention of the section when read with the two schedules, which the Legislature has added to the Act and which are I think of great help to us in interpreting the section. It would be surprising I think if the Legislature had intended to introduce double taxation in respect of vehicles by making them liable both first to taxation under clause(ii) for being kept within municipal limits and also to octroi tax for being brought into municipal limits. And, when we examine the section and the schedules relating to it in detail, I do not think we should be justified in attributing that intention to the Legislature In my opinion therefore Mr. Somasekhara Rao's contention that Section 66 of the City Municipalities Act gives no power to impose an octroi tax on motor vehicles is correct.

It has also been urged by Mr. Somashekhara Rao that, when the Government sanctioned the addition to the list of articles to be subjected to octroi tax in Mysore City of the last item, "motors and motor accessories" they did not intend to include motor vehicles by using those words. As Mr. Somashekhara Rao has pointed out, the word "motors" is a wider word and than the expression "motor vehicles" "Motors" include not only motor - engines used in motor vehicles but also stationary motors, which are used for a large number of purposes. I see nothing in section 64 of the City Municipalities Act to make it doubtful that octroi tax might be legally imposed upon stationary motor engines when brought - within the octroi limits, if that was the intention of the Council and the Government, though to impose an - octroi tax on motor vehicles would in my opinion be illegal. It is perhaps strange that such an indefinite word as "motor" should have been used by the Government when sanctioning the addition of certain articles to the list of those to be subjected to octroi tax in - Mysore City. But to me it appears more probable that the Government were using the word as referring to - motors other than the motor engines of motor vehicles than that they should have been attempting to introduce or to sanction the introduction of an octroi tax on motor vehicles.

But Mr. Somashekhara Rao has also contended that, even if the octroi duty could be legally imposed upon motor vehicles and even if the Accused's motor-bus, with which we are concerned, has been liable to octroi tax when it was first brought within the limits of - Mysore City, the Accused could not be convicted of an offence not punishable under section 30 of the City

City municipalities Act. The contention is that the mere possession of such a motor-bus within the Mysore City, even if octroi tax ought to have been paid upon it, when it was first brought within the city, and had not been paid upon it, is not made punishable by the wording of section 90 of the Act. Sub-section (1) of that section runs: "Any person selling or keeping for sale without a licence any article liable to octroi for the sale of which a licence is required to be obtained, or having in his possession any such article on which octroi has not been paid, shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater". I think it must be admitted that the wording of that sub-section is not very happy. It is indeed markedly ambiguous and can be read in several different ways. For instance - it is not clear from a grammatical point of view whether the words "on which octroi has not been paid" apply to articles sold or kept for sale without a licence for selling them within, the opening words of the sub-section or only to articles possessed within the next words of the section. However both Mr. Somasekhara Rao for the Accused and the learned Government Advocate and Mr. Raja Ra Iyengar on the other side, as I understand them, would have us read the words "on which octroi has not been paid" as relating in that sub-section only to articles "possessed" within the meaning of the words immediately preceding. And I think on the whole that is the more reasonable way to understand the use of those words. But there are other difficulties in the sub-section. Among articles on which octroi tax is -

is imposed the Act makes it possible for a municipal council by means of a bye-law to make the articles subject to a further restriction that they may not be sold without a licence for selling them. We are told, for instance, that in Mysore City tobacco, which is subject to octroi tax when brought into the City, by the force of a bye-law may not be sold or kept for sale without a special licence. Mr. Somasekhara Rao contends that sub-section (1) of section 80 of the Act refers only to articles for which a licence for selling or keeping for sale is necessary under a bye-law in that way and not to all articles subject to an octroi tax. He urges that, assuming that the motor-bus with which we are concerned was subject to octroi tax and such a tax should have been paid upon it, when it was brought within the municipal limits, keeping it within there/limits without having paid any octroi tax upon municipal it was not an offence punishable under section 80 of the Act because, as is admitted, no special licence is required by any bye-law to be obtained for selling or keeping for sale a motor-bus in Mysore City. As I have quoted from the section the opening words are: "Any person selling or keeping for sale without a licence any article liable to octroi for the sale of which a licence is required to be obtained or having in his possession any such article". Mr. Somasekhara Rao contends that the words "such article" there used mean "an article liable to octroi for the sale of which a licence is required to be obtained". On the other hand the learned Government Advocate and Mr. Raja Iyengar contend that the words "such article" there used mean only an article liable to octroi without the addition of the words "for the sale of which a licence is required

required to be obtained". In my opinion the use of the words "such article" there is ambiguous. Both the two interpretations which have been submitted are grammatically possible, though I think the construction that's interpretation is grammatically a little more proper. The learned Government Advocate has contended that there are two reasons why we should accept his interpretation of the words "such article", i.e. should accept that as meaning ~~merely~~ literally or would be likely to extend the qualification also to the sale of which a licence is required to be obtained. He suggests that the object of the section is to provide for the case of sales of which one ~~of~~ the selling or the keeping for sale of an article like to extend to the sale of which a licence is required. Where a certain sort of a licence, whether actually has been paid in the article or not, the two other things may exist that the article had been sold to which it is to extend but on which extend has not been paid. The second offence is likely to be heard a much larger number of offences than the first. It has been pointed out, rightly to accept that interpretation, the second part of the section is ~~of~~ no use to make the possession any such article a fact which has not been paid in question, or rather that there need not have been the provision; it would have been enough to provide merely for the case of an article liable to extend for the selling of which a licence was required, but for which no licence had been obtained and on which no duty had been paid: that would have embraced all the instances to which the section and the penalty ~~are~~ were intended to apply. But I think the construction has the effect that construction by the construction that the first part of the sub-section deals only with the charge of selling or keeping for

for sale without a licence an article for the sale of which a licence is required can does not bring in the question whether octroi has been paid on it or not. One, even if octroi has been paid on such an article, when a licence has not been obtained for selling it, keeping it for sale or selling it is punishable, and that the proviso of the section prevents for the prosecution of the article i.e. the sub-section applies to articles, not being provided for in the first part, whether or not for sale without a licence, on which octroi has been paid. It is possible that a shop-keeper might have in his shop for sale an article which he could not sell without a licence. He might have paid octroi for it; but this is not except for item 1 of the first part of the section. He might have in his possession, not for sale of spirit, such an article, on which he could not sell without a licence; but this is not the case of the first part of the sub-section to any penalty; but, if it were known that octroi had not been paid on the article, he would be liable to a penalty for the second part of the section. It does not follow, on any view of the meaning of the providing for the existence of unnecessary words, that the second part of them applied to article for the sale of which no licence is required. The learned Government Advocate's second argument in favour of his interpretation is that the opposite interpretation for which Mr. Subramania Iyer contends, leads to a plainly absurd result. He suggests that, if of two ambiguous interpretations one leads to a plainly unjust or absurd result we ought not to accept it. He urges that, if, as Mr. Subramania Iyer contends, a man may have within the limits an article, on which octroi ought to have been paid but has not been paid, and he

got there is no provision for punishing him for such possession, unless that is also an article for the sale of which he ought to have obtained a licence, then he may get off free, and it is absurd that he should be allowed to get off free, and we ought not to suppose that the legislature allowed such a loophole. I hardly think that that is a very effective argument. I do not think it would lead to an absurd result, if the legislature, having provided for petrol duties being collected at the same points for articles having within them a limited, should not be interested that, if petrol is sold without the payment of petrol duty, the persons should be liable to punishment for that duty. In the various cases which the learned Government counsel cited to us he might quite [illegible] in the possession of an article upon which the duty had not been paid, and that article might have got into their hands [illegible] but he might be liable to prosecution and heavy fine because, when the article was originally brought within the territorial limits petrol tax had not been paid on it. But it is not unreasonable to suppose that the Legislature, when introducing an petrol tax and the machinery for it, did not wish people to be harassed in that way, by which would often be unjust and involve[illegible] proceedings. But there are some articles, which from the nature of the act are not easy to the subject of petrol tax but dealing with which is to be restricted and controlled by licence. These, as Mr. [illegible] suggests, may will be articles which it is easy to smuggle in without paying petrol tax upon them. It could

it could not be at all unreasonable the Legislature [illegible] but it fit to make a distinction between the [illegible] articles and other articles also liable to octroi [illegible] made the possession of only those articles [illegible] in which it was desired to restrict and control. [illegible] or no octroi duty has been paid upon them. [illegible] think a side between the two interpretations [illegible] the section on the ground that the interpretation for which Mr. Jehangir has contended leads to obviously unreasonable and unjust results.

There are other arguments which Mr. [illegible] has urged in favour of his interpretation. [illegible] to [illegible] provided a penalty for persons who [illegible] a certain [illegible] articles or [illegible] introduction of articles into municipal limits [illegible] the payment of octroi. [illegible] that could be [illegible] more serious offence [illegible] with the mere possession of articles on which [illegible] duty ought to have been paid when it was [illegible] has not been paid, a fault for which [illegible] might be responsible. One could have [illegible] learned Government Advocate's interpretation [illegible] is correct, that the punishment provided [illegible] for the mere possession of an article on which [illegible] has not been paid would be considerable [illegible] punishment for deliberately bringing an article [illegible] municipal limits or abetting the introduction [illegible] municipal limits without the payment of octroi [illegible] with the intention of defrauding the revenue. But it happens that the punishment not exceeding [illegible] is for most cases just double the punishment [illegible] by section 20 for introducing or abetting the introduction of an article without the payment of octroi and with the intention of defrauding the re[illegible]

[illegible] [illegible] [illegible] [

ontrol", that that was an abbreviation which was of very little use for any one to make and obviously - stands to reason counts about its meaning. The ex- pression "such" to save the use of a number of words already as it may be justifiable; but it would be hardly justifiable to use it in order to omit a certain of the words in such a section. I think there can be no doubt that sub-section (1) of section 99 can be - grammatically, logically and reasonably interpreted in the way Mr. Commissioner Rao has asked us to interpret it. That is a way which narrows down the application so that it covers a smaller number of cases than it would if the interpretation for which the learned - Government Advocate has contended were adopted. We have to deal with a provision which is a penal provision and a fiscal provision. When there are two possible and reasonable interpretations of such a provision, it is surely our duty to accept the interpretation more favourable to the subject. In my opinion we must accept the interpretation for which Mr. Commissioner Rao has contended and find that, even if this section with which we are concerned had been validly, to control the time it was first introduced into existence, the accused could not have been guilty of an offence punishable under section 99 of the City - Municipalities Act by having driven within the municipal limits without any control (having been paid

But even now we have not enumerated the difficulties of the prosecution in such cases. Since the City - Municipalities Act was brought into force what is called the Road Traffic and Taxes Act of 1935 was enacted and

and came into force on the 1st of January 1933 Section 31 of that Act runs as follows:— "Notwithstanding - anything contained in the Mysore City, Town and Minor Municipalities Acts, 1933, no municipal council shall levy (1) a tax on motor vehicles or (2) a toll on such motor vehicles as are exempted from the payment of - municipal tolls under this Act or the rules made thereunder". Now it will be seen that the opening words of that section "notwithstanding anything contained in the Mysore City, Town and Minor Municipalities Acts, 1933, no municipal council shall levy a tax on motor vehicles" are very wide and in themselves sufficient even if it had been legal to impose an octroi tax on motor vehicles under the City Municipalities Act, to abrogate the right to impose such a tax under that Act and the right to levy any tax under any provision of Rules made in accordance with that Act. Mr. Anjo Ayyangar has raised a never curious contention in regard to those words in Section 31 of the Road Traffic and Taxes Act. He would have us understand the tax referred to in the first part of that section as only a tax within the meaning of the Road Traffic and Taxes Act, which he would say does not include an octroi tax at all. For that he relies upon the wording of the definition in the Road Traffic and Taxes Act of "Tax", which is as follows: "Tax' includes a tax, cess or fee imposed - under this Act or rules thereunder". According to him, if we apply that definition, an octroi tax imposed under the City Municipalities Act is left untouched by Section 31 of the Road Traffic and Taxes Act. But I do not think we can accept that contention for a moment. It is to be noticed that the definition I have quoted of "tax" as set out in the Road Traffic and Taxes Act, is not an

an objective definition. It is clear that for the purpose of this Act there is to include trams to be supplied under this Act or rules thereunder. (2), in Mr. Venkatesan has pointed out, the opening words of section 3, the defining section of the Act, state: "In this Act, unless there is anything repugnant in the subject or context". One cannot say that there is anything repugnant to, the subject or context in the first part of section 61 or the word trams does not in the context in which the City Municipalities act worked to. It is easy to accept such an interpretation, to assist in how to make sentence of the section.

But the learned Government Advocate has another contention in this connection. He has asked us to understand "tax" as used in the first part of section 61 of the Road Traffic and Motor Act as meaning tax other than an octroi tax, his reason being that an octroi as of the City Municipalities an octroi is not specifically described in section (iv), which introduces it, as it says. He contends that some of the imposts, which may be introduced under section 66 of that act, are called "taxes" and some are not, and so should not understand "tax" in section 61 of the Road Traffic and Motor Act as applying to any impost not described as a tax in the classification act such as in section 66 of the City Municipalities Act. He contends that clause (ii) means the imposts set out in that section is described specifically as a tax. It is a tax on all or any vehicles, boats, or animals used for riding, draught or burden, kept within the area

are concerned, the average of their allocation from vehicle taxes or other vehicles during those two years, from that the learned movement reverts and have no right that all that the legislature had reference to [illegible] by section 61 in regard to municipal councils was the vehicle tax provided for by clause (14) of section 66 of the City Municipalities Act and the similar provisions in the other Municipalities Acts, but not any other tax. I do not think it is reasonable to argue that, because the tax act of 1908 provided for computation to municipal councils on that basis, therefore the plain words of section 61 of the act refer to nothing more than a vehicle tax. On the other hand, I think, as Mr. Carmichael has so ably argued, section 61 of the act is very wide in that it gives that in section 61, [illegible] provincial [illegible] anything contained in the Ontario City, Town and other Municipal Acts, [illegible] municipal council shall levy a [illegible], if it thinks fit to raise to all the [illegible] purposes [illegible]. section 61, it will be observed, uses the words "vehicle tax". The only tax [illegible] section 61 is the taxation mentioned in section 62 of the act. I think it is clear, as Mr. Carmichael has argued, that the intention in section 61 of the act by the use of the words "vehicle tax" was to [illegible] a particular tax for keeping vehicles within municipal limits, namely, in clause (11) of section 66 of the City Municipalities Act and similar provisions of the other Municipalities Acts, and that those words are to be construed with the plain wider words used in section 61 of the Ontario Traffic and Motor Act, providing that levy of any tax on motor vehicles under the Municipalities Act...

the only doubtful point, so far as I can see, is - whether all of the road traffic and transport is that m after referring in that general way to a tax on motor vehicles the section goes on, as I have mentioned, to deal with tolls as if they were not taxes on motor vehicles. Within the meaning of the City Municipalities not there is no doubt that a toll is a tax. But, as Mr. Goodchild has pointed out, in that respect the road traffic and transport appears to have been drawn on a different plan. One part of it deals with taxes and another part with tolls, as if tolls were not taxes, and for the purpose of that section that seems to be an accurate approach from that. But then, so far as I can see, does not justify us in distilling into the effect of the Municipality of Leeds in the - first part of section 33 of the Road Traffic and Act, - which in my opinion clearly precludes the levying of any tax not provided by a private Act other than a toll and therefore would preclude the levying of any octroi tax on the motor-bus with which we are concerned, if any such octroi tax could lawfully have been lawfully imposed.

So far as I have dealt with the actual terms of the acts concerned. Perhaps it is unnecessary to discuss any more general considerations. But I may suggest that it appears to be very improbable that the Legislature can have intended to make it possible to municipal councils to impose octroi taxes on motor vehicles in 1930, when the City Municipalities Act, the Town Municipalities Act and the Minor Municipalities Act were made -- all of which provided for the imposition of an octroi tax on vehicles and goods. There are 100 municipal councils in Wessex, and it appears

appears to be very unlikely that the Legislature ever contemplated those councils imposing control duty on motor vehicles. The setback to the note limit the control duty on page to [illegible]. But, if all the municipal councils in this State were to impose control fee at the same rate as the Wynnum City Municipal Council has attempted to do, i.e. the whole of the moneys on the north of the motor vehicle carriage, it is obvious I think that this would be an extremely oppressive and objectionable fee. If a Parliament has in the course of its business to vote all the municipal areas in the State [illegible] control duty upon imposed [illegible] Municipal Council he could find at the end of the year [illegible]. And in doing so [illegible] Moreover, even if he only [illegible] he would have to vote [illegible] municipality. [illegible] to this place in the course of his speech [illegible] to show that the fee was a prohibitive one, which might be undesirable or impossible. It is hardly conceivable to me that under all these circumstances that the Government have to rest content with the power of taxation to be exercised by the municipal councils only to levy for a control of such a control [illegible] control duty on motor vehicles could ever be allowed. We may well trust that in these days the Government could prevent any unjust imposition. But that does not dispose to my mind of the impossibility of the Legislature having made it possible that municipal councils could impose such oppressive taxes even subject to the control of the Government. So it is all probable that the the Legislature would have made it possible for the -

the Government of the day, whatever it might be, to allow taxation so plainly oppressive and so clearly detrimental to the development and progress of the State ? Without discussing that aspect of the matter further I think we should have to be convinced by very clear words that the Legislature ever contemplated such oppressive methods of taxation.

There is one other point I may perhaps mention. It appears to me that it would be advantageous if sub-section (1) of section 80 of the City Municipalities Act were recast either by being made into two parts or being re-enacted in some other way so as to leave no doubt whatever about its meaning.

In my opinion this provision must be allowed and the words "a contribution and contingent act" made, and the duty imposed upon it , if levied, should be a fortiori.

Ld. H. H. O. Reilly,
CHIEF JUSTICE.

Mr. [illegible] :—

As has been pointed out by the learned Chief Justice, the scheme of the City Municipalities Act appears to have clearly behind it the intention to avoid double taxation. In section 64 of the Act different kinds of taxes and the classes of Articles etc., on which they are sought to be imposed are categorically referred to. Clause (i) of section 64(b), for example, refers to a rate on buildings or lands, Clause (ii), a tax on vehicles, boats or animals, Clause (iii), a toll on vehicles entering the city municipality but not liable to taxation under

under Clause (ii), and then comes Clause (iv) which provides for the levy of octroi on animals or goods or both brought within the octroi limits for consumption or for the..... The way in which these and the subsequent clauses of this section are worded appears to me to clearly indicate that the expression "goods" used in Clause (iv) is not intended to include the classes of articles, etc., referred to in the earlier Clauses, and, therefore, that expression cannot be held to include "vehicles" brought within the municipality for use. Out of the various schedules which form part of the enactment, Schedule I relates to the maximum rates of taxes leviable under Clauses (i), (vi) to (x) and (xiii) of Section 66, Schedule III, to Clause (ii) of that section, while Schedule II deals with Clauses (iv) and (v), out of which we are concerned in this case with Clause (iv). The arrangement also shows that the subjects of taxation dealt with in each schedule are different from those dealt with in the others, i.e., the kinds of animals or goods referred to in Schedule III are quite different from those referred to in Schedule II. That being so, I am of opinion that it was not intended by the Legislature to levy octroi on vehicles, for taxing which separate provision is made in Clause (ii) of Section 66 and the maximum rates for which are provided in Schedule III. And if that is so, Government will have no power to sanction the levy of octroi in addition to the tax contemplated by Clause (ii) of Section 66, on any of the classes of animals or goods specified therein. But, as has been pointed out by the learned Chief Justice, it is not likely that, when Government accorded their sanction to the levy of octroi on that are referred to in the new schedule referred to by them in their -

their notification as "motor and motor accessories", they had noted that expression to include motor - vehicles, an such an interpretation is clearly opposed, as already pointed out, not only to the scheme of - section 66 but also to the manner in which the various schedules, which in turn refer to the various clauses of that section, have been framed.

There is also another point of view from which the question may be looked at. The levy of octroi on "motor and not a accessories" as I understand that expression is levied on all the forms mentioned - required by section 65 and 66 of the act have been observed in this case. But the question is whether motor vehicles can be brought within the ambit of the expression "motor and motor accessories". The meaning of the word "motor" as given in Jowitt's Dictionary, page 1201, is "a prime mover; a shaft, gearing, power - engine, especially, motor boat, or the like; hence, an automobile or motor car", and a motor is thus a - contrivance which supplies power for propelling a vehicle or an engine, though in an extended or popular sense that word is also applied to a motor vehicle. In the act the expression "vehicle" is freely used: for example, clause (ii) and (iii) refer in terms to vehicles and clause (iv), [illegible] "goods" which evidently does not include vehicles as already known above. The legislature also appears to have treated "vehicle" as an expression of sufficient - importance; for sub-section 32 of section 3 defines it thus:- "Vehicle shall include bicycle, tricycle, and automotor car, or every wheeled conveyance which is used or capable of being used on a public street". As this expression has thus a clear and specific [illegible]

import and has also been used in several parts of the enactment, if, as a matter of fact, it was the intention of the municipal council to include not all vehicles in the expression "motor and motor accessories", and of the government in according sanction to the levy of control on motor vehicles, such an intention should have been very clearly expressed by the use of the words "motor vehicles". We are now called upon to interpret the expression, for the purpose of finding a person guilty under section 80 of the City Municipalities Act, and I do not think that it is proper that we should read into that expression "motor and motor accessories" the word "vehicle" and hold that the word "motor" there means very much more than its ordinary accepted meaning, viz. that it also includes a motor vehicle.

Besides the above there are some other questions which arise for consideration in this appeal but as they have been dealt with, if I may say so with respect, quite exhaustively by the learned Chief Justice in his very illuminating judgment, it is unnecessary for me to refer to them again. I therefore content myself with saying that I am in entire agreement with the reasons given by the learned Chief Justice for his decision that the accused should be acquitted.

(Sd.) K. Thambiaramaiyar Esq.

J U D G E.

"Copy

A Richards

Ag. Registrar.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat 3-1-39

Dated, Bangalore, ~~26th December 1938~~

No. L5366/mL151-38-2

From

The Secretary to the Government of His Highness the Maharaja of Mysore,
Local Self-Government Department.

To

The President,
City Municipal Council,
Mysore.

Sir,

I am directed to invite reference to the judgment of the High Court in the matter of the legality of the levy of octroi duty on motor cars by the Mysore City Municipal Council and to state that th Chief Justice has observed, among other things, that there is nothing in Section 64 of the City Municipalities Act to make it doubtful that octroi can be legally imposed upon stationary motor engines brought within the octroi limits, if that was the intention of the Council and the Government, though to impose an octroi tax on motor vehicles would be illegal. The Government Advocate is of the opinion that if the words "Motor and Motor Accessories" in the schedule of goods for which the levy of octroi duty was sanctioned should be understood to refer to the Motors, i.e., Engines and their accessories used to derive power for various machines as Rice-mill, etc., and to exclude motor vehicles, then the levy, as well as the Government Order sanctioning it would be perfectly legal, thus avoiding any necessity to interfere with the wording of the Government Order. I am to request you to furnish your opinion as to whether the word "Motor and Motor accessories" may not be clearly defined in the By-laws of the Municipality so as to exclude motor vehicles and to avoid any ambiguity.

I have the honour to be,
Sir,
Your most obedient servant,

Mir Safdar Hussain

For Secretary to Government,
Local Self-Government Departmer

Rmr

Appendix F G—1]

SUBJECT.....

.....

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Section Jud.

File No. 151-38-

Serial No. 2

Diary No. of letter replied to .....

No. L5366

To The President City Mcl, Mysore

General and Revenue Secretariat

( )

the *193*

I am directed to refer to the judgment of the High Court in the matter of the legality of the levy of octroi duty on motor cars by the Mysore city Municipal Council and to state that the Chief Justice has observed among other things, that there is nothing in Section 64 of the City Municipalities Act to make it doubtful that octroi can be legally imposed upon stationary motor engines

Date of issue 3-1-39

Signed by [illegible]

List of enclosures.....

Copied by.....

Examined by.....

WD 0278—GPB—30,000—4-3-38

brought within the octroi limits, if that was the intention of the Council and the Govt, though to impose an octroi tax on motor vehicles would be illegal The Govt Advocate is of the opinion that if the words "Motor and Motor Accessories" in the schedule of goods for which the levy of octroi duty was sanctioned should be understood to refer to the Motors & Engines and their accessories used to drive pumps for various machines as Rice-mills etc and to exclude motor vehicles, from the levy, if as well as the G.O. sanctioning it would be perfectly ~~also~~ legal thus avoiding any necessity to interfere with the wording of the G.O. I am to request you to forward your opinion as to whether the word "Motor & Motor accessories may not be clearly defined in the Byelaws of the Municipality so as to ~~accessories~~ exclude motor vehicles & avoid any ambiguity.

I have etc

3623

OFFICE OF THE PRESIDENT,
CITY MUNICIPAL COUNCIL, MYSORE.

No. C.T.109

Dated 16th January 1939.

Ref 151-38-3.

From,

M. A. SREENIVASAN, ESQ., B.A.,
President, City Municipal Council,
MYSORE.

To,

The Secretary to Government,
Local Self-Government Department,
Bangalore.

Sir,

With reference to your letter No.L 5366/M1.151-38-2 dated 3-1-1939, calling for my opinion as to whether the words "Motor and Motor accessories" may not be clearly defined in the Mysore City Municipal Rules and Bye-laws, so as to exclude motor vehicles and to avoid ambiguity, I have the honour to state that I agree to the term being defined as suggested by the Government Advocate.

I have the honour to be,
Sir,
Your most obedient servant,

M A Sreenivasan
President.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 8th March 193 9.

No. 27245/me151-38-4

From

The Secretary to the Government of His Highness the Maharaja of Mysore,
Local Self-Government Department.

To

The President,
City Municipal Council, Mysore.

Sir,

With reference to the correspondence ending with your letter No.G.T.1897 dated 16th January 1939 in the matter of clearly -- defining the words "Motor and Motor accessories" in the Octroi byelaws in force in the Municipality, I am directed to state that Government consider that the addition of the following Note after the words "Motor and Motor accessories" occurring in the byelaws would serve the purpose and to request that necessary further action may kindly be taken to effect the necessary changes in the byelaws, as required under the provisions of Law:-

"N.B. The word "Motor" in item 32 above does not include Motor Vehicles taxable under the Mysore Road Traffic and Taxes Act X of 1935".

I have the honor to be,

Sir,

Your most obedient servant,

Sd/- P.H.Krishna Rao.

Secretary to Government
L.S.G.Department.

Memo No. 27246 dt 8-3-39

Copy of the above is forwarded with compliments to the Secretary, Mysore Traffic Board for information.

By Order.

Mir Sajad Hussain

For Secretary to Government
L.S.G.Department.

Appendix F G—1]

SUBJECT .....

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Section Ml
File No. 151-38
Serial No. 4.

Diary No. of letter replied to.....

No. L7265

To

The President, City Municipal Co
Mysore

General and Revenue Secretariat

the *193*

Date of issue..... 8/2/39.....

Signed by .....Asst. Secy.....

Sir,

With reference to the correspondence ending with your letter No. G.T. 1897 dated 16-1-1939 in the matter of clearly defining the words "Motor and Motor accessories" in the octroi by laws in force in the Municipality I am directed to state that Govt. consider that the addition of the following Note after the words "Motor and Motor accessories" occurring in the by laws framed to serve the purpose and to

List of enclosures.....

Copied by .....

Examined by.....

BILL FURTHER TO AMEND

THE MYSORE CITY MUNICIPALITIES ACT, 1933.

WHEREAS it is expedient further to amend the Mysore City Municipalities Act, 1933; It is hereby enacted as follows:-

1. This Act may be called the Mysore City Municipalities (amendment) Act, 19

2. For section 90 of the Mysore City Municipalities Act, 1933 the following sections shall be substituted, namely, -

"90(1) Any person, -

(a) selling or keeping for sale without a license any article liable to octroi and for the sale of which a licence is required to be obtained, or

(b) having in his possession any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained, shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater; and

(2) any officer of the municipal council authorised by the municipal council in this behalf, if he has reason to believe that any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained is kept or concealed in any premises, may after obtaining the warrant of a magistrate, enter and search at any time such premises and if he finds any such article on which octroi has not

Statement of general principles

In Section 90 of the Mysore City Municipalities Act, 1933 as it stands for the purchaser selling without a licence and for the possession without payment of octroi of any article which is liable to octroi and the sale of which a licence is required to be obtained.

But it is contended that the existing wordings of Section 90 of the Mysore City Municipalities Act, 1933 appears to be ambiguous and to admit of the interpretation that the possession of an article liable to octroi on which octroi has not been paid, even though no licence may be required for its sale. In order to remove the ambiguity clear it is proposed to amend the section.

Similar action is also

an offence to possess without payment of octroi any article which is liable to octroi in the area in which a licence is required

Bill further to amend the Mysore City Municipalities Act.

Whereas it is expedient to amend the Mysore City Municipalities Act, 193 it is hereby enacted as follows:

Substitute the following for the existing Section

90(1). Any person selling or keeping for sale without a license any article liable to octroi and for which a license is required to be obtained or having in his possession any article on which octroi has not been paid but which is liable to octroi and on the sale of which a license is required to be obtained shall be liable, on conviction before a Magistrate to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale or possessed and one

hundred rupees whichever may be greater; and

(2) Any officer of the municipal council authorised by the municipal Council in this behalf, if he has reason to believe that any article on which octroi has not been paid but which is liable to octroi and for the sale of which a license is required to be obtained is kept or concealed any premises may also obtaining the warrant of a magistrate enter and search at any time such premises and if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same

provided that any arrested person so seized or arrested shall be produced before magistrate exercising jurisdiction within the on

within 24 hours from the time of such seizure or

rest

Provided also that nothing in this Section shall apply to any article liable to octroi and for the sale of which a license is required to be obtained, if the value of such article does not exceed two hundred rupees in value and if it is kept by any person for the personal use of himself or any member of his family or sold by such person which not required for such use.

(3) The provisions of the Code of Criminal Procedure shall, so far as may be, apply to all searches and arrests effe

this Section.

BILL FURTHER TO AMEND THE

MYSORE CITY MUNICIPALITIES ACT, 1933.

WHEREAS it is expedient further to amend the Mysore City Municipalities Act,1933; It is hereby enacted as follows:-

1. This Act may be called the Mysore City Municipalities (amendment) Act,19--.

2. For section 90 of the Mysore City Municipalities Act,1933, the following section shall be substituted, namely,-

"90 (1) Any person,

(a) selling or keeping for sale without a licence any article for the sale of which a licence is required to be obtained, or

(b) having in his possession any article for the sale of which a licence is required to be obtained and on which octroi has not been paid,

shall be liable, on conviction before a magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater; and

(2) any officer of the municipal council authorised by the municipal council in this behalf, if he has reason to believe that any article on which octroi has not been paid and for the sale of which a licence is required to be obtained, is kept or concealed in any premises, may after obtaining the warrant of a magistrate, enter and search at any time such premises and if he finds any such articl on which octroi has not been paid, may seize any such article and arrest any person in possession of the same:

Provided that any article or person so seized or arrested shall be produced before a magistrate exercising jurisdiction within the municipality within twenty-four hours from the time of such seizure or arrest:

Provided also that ~~any article or person~~ nothing in this section shall apply to any article in which this section and for the sale of which a licence is required to be obtained and which does not exceed two hundred rupees in value kept by any person for the personal use of himself or any member of his family or sold by such person when not required for such use.

(3). The provisions of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to all searches and arrests effected under this section.

BILL FURTHER TO AMEND

THE MYSORE CITY MUNICIPALITIES ACT,1933.

Statement of General Principles.

The existing wording of Section 90 of the Mysore City Municipalities Act, 1933 appears to be ambiguous and to admit of the interpretation that the possession of an article liable to octroi on which octroi has not been paid is punishable even though a licence may not be required for its sale.

The object of the section is to punish as offences the selling without a licence of any article which is liable to octroi and for the sale of which a licence is required to be obtained, and also the possession without payment of octroi of any article which is liable to octroi and for the sale of which a licence is required.

In order to make this section clear, it is proposed to amend the section.

BILL FURTHER TO AMEND THE MYSORE TOWN MUNICIPALITIES ACT, 1933.

Statement of General Principles.

Section 85 of the Mysore Town Municipalities Act, 1933 is somewhat ambiguous and appears to admit of the interpretation that possession of an article liable to octroi is punishable if octroi is paid on it, whether or not the article is one for the sale of which a licence is required to be obtained.

The object of this section is to punish as offences

(a) the selling without a licence and

(b) the possession without payment of octroi

of articles which are liable to octroi and for the sale of which a licence is required to be obtained. This amendment is similar to the one proposed in the City Municipalities Act.

It is therefore proposed to amend the section to make the meaning clear.

THE MYSORE TOWN MUNICIPALITIES (AMENDMENT) BILL.

I beg to move that the Bill further to amend the Mysore Town Municipalities Act, 1933, published under Rule 8 of the Rules of Business, be read in Council.

The object underlying this Bill is the same as that of the Bill further to amend the City Municipalities Act which I introduced a few minutes ago.

Section 85 of the Town Municipalities Act is in identical terms with section 90 of the City Municipalities Act and the ambiguity felt in respect of the latter exists equally in the case of the former. The section is therefore proposed to be amended by being recast in a clearer form.

The General Principles of the Bill were placed before the Representative Assembly in October last and accepted by that Body.

MYSORE CITY MUNICIPALITIES (AMENDMENT) BILL.

I beg to move that the Bill further to amend the Mysore City Municipalities Act, 1933, published under rule 8 of the Rules of Business be read in Council.

This Bill makes no amendment to any of the provisions of the main Act. It does not change to any extent the existing law. It merely purports to clear an ambiguity in the wording of Section 90 of the City Municipalities Act.

Under that section possession of an article liable to octroi and on which octroi has not been paid is punishable. The uncertainty was whether this referred only to articles which require a license for their sale or whether it applied to all articles which are liable to octroi. The proposed clause clears this doubt and restricts the operation of this section only to the former class of articles as originally intended. The amendment is the result of certain observations made by the Chief Justice in Cr. R. P. 99/37-38, where the point was directly in issue.

The Bill will, I am sure, commend itself to the members. The General Principles of the Bill were accepted by the Representative Assembly before which it was placed last October.

Bill further to Amend the Mysore Town Municipalities Act, 1933.

Whereas it is expedient further to amend the Mysore Town Municipalities Act, 1933; It is hereby enacted as follows:—

1. This Act may be called the Mysore Town Municipalities (amendment) Act, 19

2. For section 85 of the Mysore Town Municipalities Act, 1933, the following section shall be substituted, namely:—

"85. (i) Any person—

(*a*) selling or keeping for sale without a license any article liable to octroi and for the sale of which a license is required to be obtained, or

(*b*) having in his possession any article on which octroi has not been paid but which is liable to octroi and for the sale of which a license is required to be obtained, shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater; and

(ii) any officer of the Municipal Council authorised by the Municipal Council in this behalf, if he has reason to believe that any article on which octroi has not been paid but which is liable to octroi and for the sale of which a license is required to be obtained is kept or concealed in any premises may, after obtaining the warrant of a Magistrate, enter and search at any time such premises and if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same:

Provided that any article or person so seized or arrested shall be produced before a Magistrate exercising jurisdiction within the Municipality within twenty-four hours from the time of such seizure or arrest:

Provided also that nothing in this section shall apply to any article liable to octroi and for the sale of which a license is required to be obtained, if the value of such article does not exceed two hundred rupees in value and if it is kept by any person for the personal use of himself or any member of his family or sold by such person when not required for such use.

(iii) The provisions of the Code of Criminal Procedure, 1904, shall so far as may be, apply to all searches and arrests effected under this section."

WD 2711—GPB—50—12-10-39.

Bill further to amend the Mysore City Municipalities Act, 1933.

WHEREAS it is expedient further to amend the Mysore City Municipalities Act, 1933; It is hereby enacted as follows :—

1. This Act may be called the Mysore City Municipalities (Amendment) Act, 19

2. For Section 90 of the Mysore City Municipalities Act, 1933, the following section shall be substituted, namely :—

"90. (1) Any person.—

(*a*) selling or keeping for sale without a licence any article liable to octroi and for the sale of which a licence is required to be obtained, or

(*b*) having in his possession any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained, shall be liable, on conviction before a magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater; and

(2) any officer of the Municipal Council authorised by the Municipal Council in this behalf, if he has reason to believe that any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained is kept or concealed in any premises, may after obtaining the warrant of a Magistrate, enter and search at any time such premises and if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person inpossession of the same :

Provided that any article or person so seized or arrested shall be produced before a Magistrate exercising jurisdiction within the Municipality within twenty-four hours from the time of such seizure or arrest :

Provided also that nothing in this section shall apply to any article liable to octroi and for the sale of which a licence is required to be obtained, if the value of such

article does not exceed two hundred rupees in value and if it is kept by any person for the personal use of himself or any member of his family or sold by such person when not required for such use.

(3) The provisions of the Code of Criminal Procedure, 1904, shall so far as may be, apply to all searches and arrests effected under this section."

(344) City & Town Municipalities (Am

ವಂತೆ ಮಾಡಬೇಕೆಂದು ಉದ್ದೇಶಿಸಲಾಗಿದೆ. ಇದಕ್ಕಾಗಿ, ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಸಿಟಿ ಮುನಿಸಿಪಾಲಿಟಿಗಳ ಆಕ್ಟಿನ 86ನೆಯ ಪ್ರಕರಣದ ಮಾದರಿಯಲ್ಲಿ ಒಂದು ಪ್ರಕರಣವನ್ನು ಡಿಸ್ಟ್ರಿಕ್ಟು ಬೋರ್ಡಗಳ ಆಕ್ಟಿನಲ್ಲಿಯೂ ಸೇರಿಸಬೇಕೆಂಬ ಉದ್ದೇಶದಿಂದ ಈ ಮಸೂದಾಕಾನೂನು ರಚಿತವಾಗಿದೆ.

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3. 1933ನೆಯ ಇಸವಿಯ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಟೌನ್ ಮುನಿಸಿಪಾಲಿಟಿಗಳ ಆಕ್ಟನ್ನು ಮತ್ತಷ್ಟು ತಿದ್ದುಪಡಿ ಮಾಡುವುದಕ್ಕಾಗಿ ರಚಿತವಾದ ಮಸೂದಾ ಕಾನೂನಿನ ಸಾಮಾನ್ಯ ನಿಯಮಗಳ ವಿವರ.

1933ನೆಯ ಇಸವಿಯ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಟೌನ್ ಮುನಿಸಿಪಾಲಿಟಿಗಳ ಆಕ್ಟಿನ 85ನೆಯ ಪ್ರಕರಣವು ಈಗಿರುವ ರೀತಿಯಲ್ಲಿ ಸ್ವಲ್ಪಮಟ್ಟಿಗೆ ಅದರ ಅರ್ಥವು ಸಂದೇಹಾಸ್ಪದವಾಗಿದೆ. ಆಕ್ಟ್ರಾಯಿ ತೆರಿಗೆಯನ್ನು ಕೊಡಬೇಕಾದ ಒಂದು ಪದಾರ್ಥವನ್ನು ಮಾರಾಟಮಾಡುವುದಕ್ಕೆ ಲೈಸೆನ್ಸನ್ನು ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ವಿಧಾಯಕವಾಗಿರಲಿ ಅಥವಾ ಇಲ್ಲದಿರಲಿ, ಆ ಪದಾರ್ಥದ ಮೇಲೆ ಆಕ್ಟ್ರಾಯಿ ತೆರಿಗೆಯನ್ನು ಪಾವತಿಮಾಡದಿದ್ದಲ್ಲಿ, ಅದನ್ನು ವಶದಲ್ಲಿಟ್ಟುಕೊಂಡಿರುವವರು ಶಿಕ್ಷೆಗೆ ಗುರಿಯಾಗತಕ್ಕುದೆಂಬುದಾಗಿ ಆ ಪ್ರಕರಣದಲ್ಲಿ ಈಗಿರುವ ಪದಗಳಿಗೆ ಅರ್ಥ ಮಾಡಲು ಈಗ ಅವಕಾಶವಿದೆ.

ಈ ಪ್ರಕರಣದ ಉದ್ದೇಶವು, ಯಾವ ಪದಾರ್ಥದ ವಿಷಯದಲ್ಲಿ ಆಕ್ಟ್ರಾಯಿ ತೆರಿಗೆಯನ್ನು ಕೊಡಬೇಕಾಗಿದ್ದು ಆ ಪದಾರ್ಥವನ್ನು ಮಾರಾಟಮಾಡುವುದಕ್ಕೆ ಲೈಸೆನ್ಸನ್ನು ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂಬುದಾಗಿ ವಿಧಾಯಕವಾಗಿದೆಯೋ ಅಂಥ ಪದಾರ್ಥವನ್ನು,

(a) ಲೈಸೆನ್ಸಿಲ್ಲದೆ ಯಾರಾದರೂ ಮಾರಾಟಮಾಡಿದರೆ, ಮತ್ತು

(b) ಆಕ್ಟ್ರಾಯಿ ತೆರಿಗೆಯನ್ನು ಪಾವತಿಮಾಡದೆ ವಶದಲ್ಲಿಟ್ಟುಕೊಂಡಿದ್ದರೆ, ಅಂಥವರನ್ನು ಶಿಕ್ಷೆಗೆ ಗುರಿಪಡಿಸಬೇಕೆಂಬುದಾಗಿದೆ.

ಆದುದರಿಂದ ಆ ಅರ್ಥವನ್ನು ಸ್ಪಷ್ಟಪಡಿಸುವುದಕ್ಕಾಗಿ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಟೌನ್ ಮುನಿಸಿಪಾಲಿಟಿಗಳ ಆಕ್ಟಿನ 85ನೆಯ ಪ್ರಕರಣವನ್ನು ತಿದ್ದುಪಡಿಮಾಡಬೇಕೆಂದು ಉದ್ದೇಶಿಸಲಾಗಿದೆ. ಅದಕ್ಕನುಸಾರವಾಗಿ ಈ ಮಸೂದಾ ಕಾನೂನನ್ನು ರಚಿಸಲಾಗಿದೆ.

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4. 1933ನೆಯ ಇಸವಿಯ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಸಿಟಿ ಮುನಿಸಿಪಾಲಿಟಿಗಳ ಆಕ್ಟನ್ನು ಮತ್ತಷ್ಟು ತಿದ್ದುಪಡಿ ಮಾಡುವುದಕ್ಕಾಗಿ ರಚಿತವಾದ ಮಸೂದಾ ಕಾನೂನಿನ ಸಾಮಾನ್ಯ ನಿಯಮಗಳ ವಿವರ.

1933ನೆಯ ಇಸವಿಯ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಸಿಟಿ ಮುನಿಸಿಪಾಲಿಟಿಗಳ ಆಕ್ಟಿನ 90ನೆಯ ಪ್ರಕರಣವು ಈಗಿರುವ ರೀತಿಯಲ್ಲಿ, ಸ್ವಲ್ಪಮಟ್ಟಿಗೆ ಅದರ ಅರ್ಥವು ಸಂದೇಹಾಸ್ಪದವಾಗಿದೆ. ಆಕ್ಟ್ರಾಯಿ ತೆರಿಗೆಯನ್ನು ಕೊಡಬೇಕಾದ ಒಂದು ಪದಾರ್ಥವನ್ನು ಮಾರಾಟಮಾಡುವುದಕ್ಕೆ ಲೈಸೆನ್ಸನ್ನು ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ವಿಧಾಯಕವಾಗಿಲ್ಲದಿದ್ದರೂ ಸಹ, ಅದರ ಸಂಬಂಧದಲ್ಲಿ ಆಕ್ಟ್ರಾಯಿ ತೆರಿಗೆಯನ್ನು ಪಾವತಿ ಮಾಡಿಲ್ಲದಿದ್ದಲ್ಲಿ, ಅದನ್ನು ವಶದಲ್ಲಿಟ್ಟುಕೊಂಡಿರುವವನು ಶಿಕ್ಷೆಗೆ ಗುರಿಮಾಡಲ್ಪಡತಕ್ಕುದೆಂದು ಆ ಪ್ರಕರಣದಲ್ಲಿ ಈಗಿರುವ ಪದಗಳಿಗೆ ಅರ್ಥ ಮಾಡಲು ಈಗ ಅವಕಾಶವಿದೆ.

ಈ ಪ್ರಕರಣದ ಉದ್ದೇಶವು ಎರಡು ಬಗೆಯ ಅಪರಾಧಗಳನ್ನು ಶಿಕ್ಷೆಗೆ ಗುರಿಪಡಿಸಬೇಕೆಂಬುದಾಗಿದೆ. ಆಕ್ಟ್ರಾಯಿ ತೆರಿಗೆಯನ್ನು ಕೊಡಬೇಕಾದ ಯಾವ ಪದಾರ್ಥವನ್ನು ಮಾರಾಟ ಮಾಡುವುದಕ್ಕೆ ಲೈಸೆನ್ಸನ್ನು ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ವಿಧಾಯಕವಾಗಿದೆಯೋ ಅಂಥ ಪದಾರ್ಥವನ್ನು ಲೈಸೆನ್ಸಿಲ್ಲದೆ ಮಾರಾಟಮಾಡುವುದು ಒಂದು ಬಗೆಯ ಅಪರಾಧ ; ಆಕ್ಟ್ರಾಯಿ ತೆರಿಗೆ ಕೊಡಬೇಕಾದ ಯಾವ ಪದಾರ್ಥವನ್ನು ಮಾರಾಟಮಾಡುವುದಕ್ಕೆ ಲೈಸೆನ್ಸನ್ನು ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ವಿಧಾಯಕವಾಗಿದೆಯೋ ಅಂಥ ಪದಾರ್ಥವನ್ನು, ಅದರಮೇಲೆ ಆಕ್ಟ್ರಾಯಿ ತೆರಿಗೆಯನ್ನು ಪಾವತಿ ಮಾಡದೆಯೇ ವಶದಲ್ಲಿಟ್ಟುಕೊಂಡಿರುವುದು ಇನ್ನೊಂದು ಬಗೆಯ ಅಪರಾಧ. ಈ ಎರಡು ಬಗೆಯ ಅಪರಾಧಗಳಿಗಾಗಿ ದಂಡನೆಯಾಗಬೇಕೆಂಬುದೇ ಮೇಲೆ ಸಮೂಹಿಸಿರುವ ಆ 90ನೆಯ ಪ್ರಕರಣದ ಉದ್ದೇಶ.

ಈ ಅರ್ಥವು ಸ್ಪಷ್ಟವಾಗಿ ತಿಳಿದುಬರುವಂತೆ ಮಾಡುವುದಕ್ಕಾಗಿ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಸಿಟಿ ಮುನಿಸಿಪಾಲಿಟಿಗಳ ಆಕ್ಟಿನ 90ನೆಯ ಪ್ರಕರಣವನ್ನು ತಿದ್ದುಪಡಿ ಮಾಡಬೇಕೆಂದು ಉದ್ದೇಶಿಸಲಾಗಿದೆ. ಅದಕ್ಕನುಸಾರವಾಗಿ ಈ ಮಸೂದಾ ಕಾನೂನನ್ನು ರಚಿಸಲಾಗಿದೆ.

ಬೆಂಗಳೂರು
ತಾರೀಖು 2ನೆಯ ಅಕ್ಟೋಬರ್ 1939.

ಸಿ. ಸುಬ್ರಹ್ಮಣ್ಯ ಐಯ್ಯರ್,
ಮೈಸೂರು ಪ್ರಜಾಪ್ರತಿನಿಧಿ ಸಭೆಯ ಸೆಕ್ರೆಟೆರಿ.

WD 2558—GPB—450—2-10-39

ಮೈಸೂರು ಪ್ರಜಾಪ್ರತಿನಿಧಿ ಸಭೆ.

ದಸರಾ ಅಧಿವೇಶನ—ಅಕ್ಟೋಬರ್ 1939

ಪ್ರಜಾಪ್ರತಿನಿಧಿ ಸಭೆಯವರ ಅಭಿಪ್ರಾಯಕ್ಕಾಗಿ ಒಪ್ಪಿಸತಕ್ಕ ಸರ್ಕಾರಿ ಕಾರ್ಯಕಲಾಪಗಳ ವಿವರ.

1. ವಿದೇಶೀಯರ ರಿಜಿಸ್ಟ್ರೇಷನಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಮಸೂದಾ ಕಾನೂನಿನ ಸಾಮಾನ್ಯ ನಿಯಮಗಳ ವಿವರ.

ಇಂಡಿಯಾ ದೇಶದಲ್ಲಿ ಎಷ್ಟು ಮಂದಿ ವಿದೇಶೀಯರಿದ್ದಾರೆ, ಅವರು ಎಲ್ಲೆಲ್ಲಿದ್ದಾರೆ—ಇವೇ ಮುಂತಾಗಿ ಅವರಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಸಮಸ್ತ ಸಮಾಚಾರಗಳೂ ಸರ್ವಕಾಲದಲ್ಲಿಯೂ ದೊರೆಯುವಂತೆ ಸಿದ್ಧವಾಗಿಟ್ಟುಕೊಂಡಿರುವುದಕ್ಕೆ ಈಗಿರುವ ಕಾನೂನಿನ ನಿಬಂಧನೆಗಳ ಮೇರೆಗೆ ಸಾಕಾದಷ್ಟು ಅವಕಾಶವಿಲ್ಲವೆಂದು ಇಂಡಿಯಾ ಸರ್ಕಾರದವರಿಗೆ ಕಂಡುಬಂದಿತು. ಆ ರೀತಿಯ ಸಮಾಚಾರಗಳನ್ನಿಟ್ಟುಕೊಂಡಿರುವುದು ಇಂಡಿಯಾ ದೇಶದ ರಕ್ಷಣೆಯ ಉದ್ದೇಶಗಳಿಗಾಗಿ ಆವಶ್ಯಕವೆಂದು ಇಂಡಿಯಾ ಸರ್ಕಾರದವರು ಭಾವಿಸಿದರು. ಅಲ್ಲದೆ, ಇಂಡಿಯಾ ದೇಶದಲ್ಲಿರತಕ್ಕ ವಿದೇಶೀಯರ ಸಂಬಂಧವಾಗಿ ಅವರ ಬಂಧುಗಳು ಆಗಾಗ್ಗೆ ಸಮಾಚಾರಗಳನ್ನು ಕೇಳುತ್ತಿರುವುದರಿಂದ ಅವರಿಗೆ ಆ ಸಮಾಚಾರಗಳನ್ನು ಒದಗಿಸುವುದಕ್ಕಾಗಿಯೂ ಸಹ ಅವು ಆವಶ್ಯಕವೆಂದು ಇಂಡಿಯಾ ಸರ್ಕಾರದವರು ಭಾವಿಸಿದರು. ಅದಕ್ಕನುಗುಣವಾಗಿ ಇದೇ ವರ್ಷದ ಪ್ರಾರಂಭದಲ್ಲಿ ವಿದೇಶೀಯರ ರಿಜಿಸ್ಟ್ರೇಷನಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಆಕ್ಟನ್ನು ಅವರು ಮುಂಜೂರ್ಮಾಡಿದರು.

ಇಂಡಿಯಾ ದೇಶದ ಯಾವ ಭಾಗದಲ್ಲಿಯೇ ಆಗಲಿ ಹಾಜರಿರುವ ಅಥವಾ ವಾಸವಾಗಿರುವ ಎಲ್ಲ ವಿದೇಶೀಯರ ವಿಷಯದಲ್ಲಿಯೂ ಅವರಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಸಮಗ್ರ ಸಮಾಚಾರವೂ ದೊರೆಯುವಂತೆ ಮಾಡುವುದಕ್ಕಾಗಿ ಭಾರತೀಯ ಸಂಸ್ಥಾನಗಳವರೂ ಸಹ ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದಲ್ಲಿ ಏರ್ಪಟ್ಟಿರುವ ಆಕ್ಟಿನ ಮಾದರಿಯ ಆಕ್ಟುಗಳನ್ನು ಆಯಾ ಸಂಸ್ಥಾನಕ್ಕೆ ಸೇರಿದ ಪ್ರದೇಶಗಳಲ್ಲಿಯೂ ಜಾರಿಗೆ ತರಬೇಕಾದುದು ವಿಹಿತವೆಂದು ಇಂಡಿಯಾ ಸರ್ಕಾರದವರು ಭಾವಿಸಿದರು.

ಇದು ಬಹಳ ಜರೂರಾದ ವಿಷಯವಾಗಿದ್ದುದರಿಂದ ಜೂನ್ ತಿಂಗಳಿನಲ್ಲಿ ಈ ಸಂಬಂಧವಾಗಿ ಜರೂರಾತಿಯ ಒಂದು ಕಾನೂನನ್ನು ಏರ್ಪಡಿಸಲಾಯಿತು. ಈ ಕಾನೂನು ಅನ್ವಯಿಸುವ ಅವಧಿಯು 1939ನೆಯ ಇಸವಿ ಡಿಸೆಂಬರ್ ತಿಂಗಳಿನಲ್ಲಿ ಪೂರೈಸುತ್ತದೆ. ಈ ಸಂಬಂಧದಲ್ಲಿ ಖಾಯಮಾಗಿ ಜಾರಿಯಲ್ಲಿರತಕ್ಕ ಒಂದು ಕಾನೂನನ್ನು ಏರ್ಪಡಿಸಬೇಕಾದುದು ಆವಶ್ಯಕವೆಂದು ಭಾವಿಸಲಾಗಿದೆ.

ಇದಕ್ಕಾಗಿ ರಚಿಸಿರತಕ್ಕ ಮಸೂದಾ ಕಾನೂನು ಚಿಕ್ಕದಾಗಿದೆ. ಅದರ ನಿಯಮಗಳು, ಯಾವಾಗಲೇ ಆಗಲಿ ಆಯಾ ಕಾಲದಲ್ಲಿ ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿರತಕ್ಕ ವಿದೇಶೀಯರ ಹೆಸರುಗಳನ್ನೊಳಗೊಂಡ ರಿಜಿಸ್ಟರನ್ನಿಡುವುದೊಂದು; ಮತ್ತು ಆ ರಿಜಿಸ್ಟರಿನಲ್ಲಿರತಕ್ಕ ವಿವರಗಳಲ್ಲಿ ಆಗಿಂದಾಗ್ಗೆ ಆವಶ್ಯಕವಾದ ಬದಲಾವಣೆಗಳನ್ನು ಮಾಡುತ್ತ ಮತ್ತು ಹೆಚ್ಚಿಗೆ ಸಂಗತಿಗಳನ್ನು ಸೇರಿಸುತ್ತ ತಹಲ್‌ವರೆಗಿನ ವಿವರಗಳನ್ನು ಅದು ಒಳಗೊಂಡಿರುವಂತೆ ಆ ರಿಜಿಸ್ಟರಿನಲ್ಲಿ ಬರೆದಿಡುತ್ತ ಬರುವುದೊಂದು; ಇಪೆರಡೂ ನಡೆಯುವಂತೆ ಮಾಡುವುದಕ್ಕೆ ಆವಶ್ಯಕವಾದ ಕಾನೂನಿನ ಸಾಧನವನ್ನು ಏರ್ಪಡಿಸುವುದಕ್ಕೆ ಮಾತ್ರವೇ ಸಂಬಂಧಪಟ್ಟಿವೆ.

2. 1926ನೆಯ ಇಸವಿಯ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಡಿಸ್ಟ್ರಿಕ್ಟು ಬೋರ್ಡುಗಳ ಆಕ್ಟನ್ನು ಮತ್ತಷ್ಟು ತಿದ್ದುಪಾಟು ಮಾಡುವುದಕ್ಕಾಗಿ ರಚಿತವಾದ ಮಸೂದಾಕಾನೂನಿನ ಸಾಮಾನ್ಯ ನಿಯಮಗಳ ವಿವರ.

ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿರತಕ್ಕ ಅನೇಕ ಡಿಸ್ಟ್ರಿಕ್ಟು ಬೋರ್ಡುಗಳ ಹಣಕಾಸಿನ ಪರಿಸ್ಥಿತಿಯು ಸಮರ್ಪಕವಾಗಿಲ್ಲ. ಡಿಸ್ಟ್ರಿಕ್ಟು ಬೋರ್ಡುಗಳ ಆಯವ್ಯಯಗಳ ಸ್ಥಿತಿಗೆ ಸಂಬಂಧಪಟ್ಟ ವಿಚಾರಗಳನ್ನು ಪರಿಶೀಲಿಸುವುದಕ್ಕಾಗಿ ಸರ್ಕಾರದವರು ಈಗ್ಗೆ ಕೆಲವು ಕಾಲದ ಹಿಂದೆ ಒಂದು ಸಮಿತಿಯನ್ನು ನೇಮಕ ಮಾಡಿದ್ದರಷ್ಟೆ. ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಡಿಸ್ಟ್ರಿಕ್ಟು ಬೋರ್ಡುಗಳ ಆಕ್ಟಿನ 69ನೆಯ ಪ್ರಕರಣದ ಮೇರೆಗೆ ಕೆಲವು ಡಿಸ್ಟ್ರಿಕ್ಟು ಬೋರ್ಡುಗಳವರು ಒಂದು ವಿಶೇಷ ರೀತಿಯ ಸೆಸ್ಸನ್ನು ವಿಧಾಯಕ ಮಾಡಬೇಕೆಂಬುದಾಗಿ ಆ ಸಮಿತಿಯವರು ಸಲಹೆ ಮಾಡಿದ್ದಾರೆ. ಡಿಸ್ಟ್ರಿಕ್ಟು ಬೋರ್ಡುಗಳವರು ಹಾಗೆ ಸೆಸ್ಸನ್ನು ವಿಧಿಸುವುದಕ್ಕೆ ಸಮ್ಮತಿಸಿಲ್ಲ. ಆದರೆ ಅವರ ವರಮಾನವನ್ನು ಹೆಚ್ಚಿಸುವುದಕ್ಕೆ ಬೇರೆ ಯಾವ ಸಾಧನೋಪಾಯವೂ ಇಲ್ಲ. ಆದುದರಿಂದ, ಡಿಸ್ಟ್ರಿಕ್ಟು ಬೋರ್ಡುಗಳವರು ಅಂಥ ವಿಶೇಷ ರೀತಿಯ ಸೆಸ್ಸನು ವಿಧಾಯಕ ಮಾಡಬೇಕೆಂದು ಅಪ್ಪಣೆ ಮಾಡುವುದಕ್ಕೆ ಸರ್ಕಾರದವರಿಗೆ ಅಧಿಕಾರವಿರು

The Mysore Representative Assembly.

DASARA SESSION—OCTOBER 1939.

STATEMENT OF GOVERNMENT BUSINESS TO BE PLACED BEFORE THE REPRESENTATIVE ASSEMBLY.

1. Statement of the General Principles of the Bill for the Registration of Foreigners.

For the possession at all times of complete information as to the number and whereabouts of foreigners in India, it was found by the Government of India that the existing provisions of law were inadequate. Such information was considered necessary for the purposes of national defence as well as for replying to enquiries regarding such foreigners received from time to time from their relatives. The Registration of Foreigners Act was, accordingly, passed early this year.

It was further considered desirable that, in order that complete information might be available in regard to all foreigners wherever present or resident in India, Indian States should also apply to the State Territory Acts similar to the British Indian measure.

As the matter was urgent, an emergency Act was passed in June. This Act expires in December 1939, and it is considered desirable to have a permanent measure on the Statute Book.

The Bill is a short one, its provisions being confined to the creation of the legal machinery necessary for maintaining a register of foreigners who are at any time present in Mysore and keeping that register up-to-date.

2. Statement of the General Principles of the Bill further to amend the Mysore District Boards Act, 1926.

The financial condition of most of the District Boards is not satisfactory and the Committee appointed by Government to examine their finances has recommended that some of the District Boards should levy a special cess under Section 69 of the Mysore District Boards Act. As the District Boards are not agreeable to impose the levy and there is no other source by which they can improve their finances, it is proposed that Government should take power to require them to impose the levy by including in the District Boards Act a Section similar to Section 86 of the Mysore City Municipalities Act.

3. Statement of the General Principles of the Bill further to amend the Mysore Town Municipalities Act, 1933.

Section 85 of the Mysore Town Municipalities Act, 1933, is somewhat ambiguous and appears to admit of the interpretation that possession of an article liable to octroi is punishable if octroi is not paid on it, whether or not the article is one for the sale of which a licence is required to be obtained.

The object of this section is to punish as offences—

(*a*) the selling without a licence, and

(*b*) the possession without payment of octroi,

of articles which are liable to octroi and for the sale of which a licence is required to be obtained.

It is, therefore, proposed to amend the section to make the meaning clear.

4. Statement of the General Principles of the Bill further to amend the Mysore City Municipalities Act, 1933.

The existing wording of Section 90 of the Mysore City Municipalities Act, 1933, appears to be ambiguous and to admit of the interpretation that the possession of an article liable to octroi on which octroi has not been paid is punishable even though a licence may not be required for its sale.

The object of the section is to punish as offences the selling without a licence of any article which is liable to octroi and for the sale of which a licence is required to be obtained, and also the possession without payment of octroi of any article which is liable to octroi and for the sale of which a licence is required.

In order to make this section clear, it is proposed to amend the section.

C. SUBRAHMANYA AIYAR

Secretary,

Mysore Representative Assembly.

BANGALORE,

Dated 2nd October 1939

NOTIFICATION.

3326—*L. C., Bangalore, dated 12th December* 1939.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore City Municipalities Act, 1933, is published for general information with the statement of objects and reasons.

By Order,

C. SUBRAHMANYA AIYAR,
Secretary,
Mysore Legislative Council.

Bill further to amend the Mysore City Municipalities Act, 1933.

WHEREAS it is expedient further to amend the Mysore City Municipalities Act, 1933; It is hereby enacted as follows:—

1. This Act may be called the Mysore City Municipalities (amendment) Act, 19

2. For Section 90 of the Mysore City Municipalities Act, 1933, the following section shall be substituted, namely:—

"90. (1) Any person,—

(*a*) selling or keeping for sale without a licence any article liable to octroi and for the sale of which a licence is required to be obtained, or

(*b*) having in his possession any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained,

shall be liable, on conviction before a magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater; and

(2) any officer of the Municipal Council authorised by the Municipal Council in this behalf, if he has reason to believe that any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained is kept or concealed in any premises, may after obtaining the warrant of a Magistrate, enter and search at any time such premises and if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same :

Provided that any article or person so seized or arrested shall be produced before a Magistrate exercising jurisdiction within the Municipality within twenty-four hours from the time of such seizure or arrest :

Provided also that nothing in this section shall apply to any article liable to octroi and for the sale of which a licence is required to be obtained, if the value of such article does not exceed two hundred rupees in value and if it is kept by any person for the personal use of himself or any member of his family or sold by such person when not required for such use.

(3) The provisions of the Code of Criminal Procedure, 1904, shall so far as may be, apply to all searches and arrests effected under this section."

Statement of objects and reasons.

The existing wording of Section 90 of the Mysore City Municipalities Act, 1933, appears to be ambiguous and to admit of the interpretation that the possession of an article liable to octroi on which octroi has not been paid is punishable even though a licence may not be required for its sale.

The object of the section is to punish as offences the selling without a licence of any article which is liable to octroi and for the sale of which a licence is required to be obtained; and also the possession without payment of octroi of any article which is liable to octroi and for the sale of which a licence is required.

In order to make this section clear, it is proposed to amend it.

NOTIFICATION

No. 3328, *L. C., dated Bangalore, 12th December 1939.*

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Town Municipalities Act, 1933, is published for general information, with the statement of objects and reasons.

By Order,

C. SUBRAHMANYA AIYAR,
Secretary,
Mysore Legislative Council.

Bill further to amend the Mysore Town Municipalities Act, 1933.

WHEREAS it is expedient further to amend the Mysore Town Municipalities Act, 1933; It is hereby enacted as follows:—

1. This Act may be called the Mysore Town Municipalities (amendment) Act, 19

2. For section 85 of the Mysore Town Municipalities Act, 1933, the following section shall be substituted, namely:—

85. (i) Any person—

(*a*) selling or keeping for sale without a licence any article liable to octroi and for the sale of which a licence is required to be obtained, or

(*b*) having in his possession any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained, shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater; and

(ii) any officer of the Municipal Council authorised Municipal Council in this behalf, if he has reason to believe that any article on which octroi has not been

paid but which is liable to octroi and for the sale of which a licence is required to be obtained is kept or concealed in any premises may, after obtaining the warrant of a Magistrate, enter and search at any time such premises and if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same:

Provided that any article or person so seized or arrested shall be produced before a Magistrate exercising jurisdiction within the Municipality within twenty-four hours from the time of such seizure or arrest:

Provided also that nothing in this section shall apply to any article liable to octroi and for the sale of which a licence is required to be obtained, if the value of such article does not exceed two hundred rupees and if it is kept by any person for the personal use of himself or any member of his family or sold by such person when not required for such use.

(iii) The provisions of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to all searches and arrests effected under this section."

Statement of objects and reasons.

Section 85 of the Mysore Town Municipalities Act, 1933, is somewhat ambiguous and appears to admit of the interpretation that possession of an article liable to octroi is punishable if octroi is not paid on it, whether or not the article is one for the sale of which a licence is required to be obtained.

The object of this section is to punish as offences—

(*a*) the selling without a licence, and

(*b*) the possession without payment of octroi,

of articles which are liable to octroi and for the sale of which a licence is required to be obtained.

This amendment is similar to the one proposed in the Mysore City Municipalities Act, 1933.

It is, therefore, proposed to amend the section to make the meaning clear.

G. R. S. VI.—s-III/14]

DRAFT

SUBJECT.....

.....

.....

Section. Legis
File No. 44 — 39
Serial No.

Proceedings of the Government of H. H. the Maharaja of Mysore

Diary No. of letter replied to.....

Order No. PS 421/Sec

GENERAL AND REVENUE SECRÉTARIAT,

, the.....*191*

Ordered that the accompanying..... rules to amend the Mysore City Municipalities Act, 1933

which received the assent of His Highness the Maharaja, on the 1st day of February 1940

Date of issue 1-2-40.

Signed by Dr. C.S.M.

be published as ~~Regulation~~ Act No. VII of 1940, in the *Mysore Gazette* for general information.

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

Secretary to Government.
Leg Dept

To

The Compiler, *Mysore Gazette*, for publication in Part III of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....spare copies in Kannada to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore. Proofs should be sent to this office for approval before publication.

Spare Copies as per Standing orders

Copy to Translation Section.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF MYSORE.

O R D E R No.P. 5471 Legs 44-39-1

Dated Bangalore the 10th February 1940.

Ordered that the accompanying Act further to amend the Mysore City Municipalities Act, 1933 which received the assent of His Highness the Maharaja, on the 1st day of February 1940, be published as Act No.VII of 1940, in the Mysore Gazette for general information.

For Secretary to Government
Law Department.

To

The Compiler, Mysore Gazette for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies as per Standing Orders. Proofs should be sent to this office for approval before publication.

G. R. S. VI.—s-111/141

DRAFT.

SUBJECT.....

Section. Legn
File No. 44 - 39
Serial No. 2

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT,

, *the*.....*191*

Proceedings of the Government of H. H. the Maharaja of Mysore.

Order No. P S 4722 Exc.

Ordered that the accompanying..... Act further to amend the Mysore Town Municipalities Act, 1933 .....

which received the assent of His Highness the Maharaja, on the 18th day of February 1940, be published as ~~Regulation~~ Act No. VIII of 1940, in the *Mysore Gazette* for general information.

Date of issue 19/2/40

Signed by Mr. C.S.A.

Secretary to Government.
Law dept

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

To

The Compiler, *Mysore Gazette*, for publication in Part III of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....spare copies in Kannada to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore. Proofs should be sent to this office for approval before publication.

Spare copies as per standing Order.

Copy to Bangalore Curator

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

ORDER No. 5492 Legs 44-39-2

Dated Bangalore the 10th February 1940.

Ordered that the accompanying Act further to amend the Mysore Town Municipalities Act, 1933 which received the assent of His Highness the Maharaja, on the 1st day of February 1940, be published as Act No.VIII of 1940 in the Mysore Gazette for general information.

Secretary to Government
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies as per Standing Orders. Proofs should be sent to this office for approval before publication.

NOTIFICATION.

Order No. P.-5471—Legis. 41-39-1, *dated Bangalore, the* 10*th February* 1940.

Ordered that the accompanying Act further to amend the Mysore City Municipalities Act, 1933, which received the assent of His Highness the Maharaja, on the 1st day of February 1940, be published as Act No. VII of 1940, in the *Mysore Gazette* for general information.

C. SUBRAHMANYA AIYAR
Secretary to Government,
Law Department.

ACT No. VII OF 1940.

The Mysore City Municipalities (amendment) Act, 1940.

(*Received the assent of His Highness the Maharaja on the first day of February 1940.*)

WHEREAS it is expedient further to amend the Mysore City Municipalities Act, 1933; It is hereby enacted as follows:—

1. This Act may be called the Mysore City Municipalities (amendment) Act, 1940. Short title.

2. For section 90 of the Mysore City Municipalities Act, 1933, the following section shall be substituted namely:— Substitution of new section for section 90, Act VII of 1933

"90. (1) Any person,— Penalty for selling articles liable to octroi without a licence or for being in possession of any such article on which octroi has not been paid.

(*a*) selling or keeping for sale without a licence any article liable to octroi and for the sale of which a licence is required to be obtained, or

(*b*) having in his possession any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained,

shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the articles

so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater; and

Seizure of articles on which octroi duty has not been paid and arrest of person in possession of such articles.

(2) any officer of the Municipal Council authorised by the Municipal Council in this behalf, if he has reason to believe that any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained is kept or concealed in any premises may, after obtaining the warrant of a Magistrate, enter and search at any time such premises and if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same:

Provided that any article or person so seized or arrested shall be produced before a Magistrate exercising jurisdiction within the municipality within twenty-four hours from the time of such seizure or arrest:

Provided also that nothing in this section shall apply to any article liable to octroi and for the sale of which a licence is required to be obtained, if the value of such article does not exceed two hundred rupees in value and if it is kept by any person for the personal use of himself or any member of his family or sold by such person, when not required for such use.

Searches and arrests to be governed by the Code of Criminal Procedure, 1904.

(3) The provisions of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to all searches and arrests effected under this section."

MIRZA M. ISMAIL
Dewan.

NOTIFICATION.

Order No. P. 5472—Legis. 44-39-2, dated Bangalore, the 10th February 1940.

Ordered that the accompanying Act further to amend the Mysore Town Municipalities Act, 1933, which received the assent of His Highness the Maharaja, on the 1st day of February 1940, be published as Act No. VIII of 1940, in the *Mysore Gazette* for general information.

C. SUBRAHMANYA AIYAR,
Secretary to Government,
Law Department.

ACT No. VIII OF 1940.

The Mysore Town Municipalities (amendment) Act, 1940.

(Received the assent of His Highness the Maharaja on the first day of February 1940.)

WHEREAS it is expedient further to amend the Mysore Town Municipalities Act, 1933, it is hereby enacted as follows :—

Short title.

1. This Act may be called the Mysore Town Municipalities (amendment) Act, 1940.

Substitution of new section for section 85, Act VIII of 1933.

2. For section 85 of the Mysore Town Municipalities Act, 1933, the following section shall be substituted, namely :—

"85. (i) Any person—

Penalty for selling articles liable to octroi without a licence or for being in possession of any such article on which octroi has not been paid.

(*a*) selling or keeping for sale without a licence any article liable to octroi and for the sale of which a licence is required to be obtained, or

(*b*) having in his possession any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained,

shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the articles

so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater; and

Seizure of articles on which octroi duty has not been paid and arrest of person in possession of such articles.

(ii) any officer of the Municipal Council authorised by the Municipal Council in this behalf, if he has reason to believe that any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained is kept or concealed in any premises may, after obtaining the warrant of a Magistrate, enter and search at any time such premises and if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same:

Provided that any article or person so seized or arrested shall be produced before a Magistrate exercising jurisdiction within the municipality within twenty-four hours from the time of such seizure or arrest:

Provided also that nothing in this section shall apply to any article liable to octroi and for the sale of which a licence is required to be obtained, if the value of such article does not exceed two hundred rupees and if it is kept by any person for the personal use of himself or any member of his family or sold by such person when not required for such use.

Searches and arrests to be governed by the Code of Criminal Procedure, 1904.

(iii) The provisions of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to all searches and arrests effected under this section."

MIRZA M. ISMAIL,
Dewan.